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## Lawyers will ask judge to rethink USA Capital ruling

By [JOHN G. EDWARDS](#)  
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Attorneys for investors in failed USA Capital today will ask a federal judge in Southern California to reconsider his order establishing a receivership over a development company owned by former USA Capital managers.

U.S. District Judge Stephen Larson of Riverside, Calif., is scheduled to hold a hearing on the question. He is expected to decide whether he or bankruptcy Judge Linda Riegler of Las Vegas will have authority over assets controlled by USA Investment Partners, a real estate development company owned by Tom Hantges, Joe Milanowski and Paul Hamilton.

The three men were executives at USA Capital, a private lender that became insolvent and filed for bankruptcy court protection in April 2006. USA Capital held \$962 million in assets entrusted to USA Capital by 6,000 investors around the country.

USA Capital and affiliated companies solicited investor money for hard-money loans that were secured by real estate from developers. Investors were attracted by double-digit interest rates they could earn lending money to developers.

Riegler confirmed a reorganization plan for USA Capital, which took effect in March, and appointed two professionals to pursue potential further recoveries for investors. One was Geoffrey Berman, who represents USA Commercial Mortgage, and the other was Michael Tucker, administrator for the USA Capital Diversified Trust Fund.

Investment Partners so far has avoided bankruptcy court. Berman and Tucker were preparing to file a motion to push Investment Partners into bankruptcy on March 28. But Berman and Tucker learned that Larson put Investment Partners into a temporary receivership on the previous day at the request of Robert Russell, who was developing real estate with USA Investment Partners.

On Thursday, former FBI agents hired by bankruptcy court officials believe they saw document-shredding equipment being taken from the USA Investment Partners building, according to a court document. The former FBI agents also heard shredding sounds.

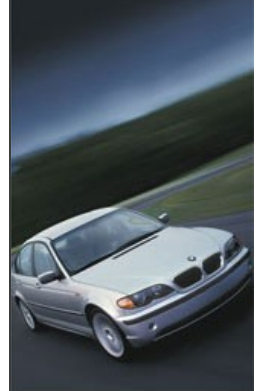
The U.S. attorney's office in Las Vegas was given a copy of the receivership order and sent FBI agents to USA Investment Partners' office.

Now, the administrator of the USA Capital Diversified mortgage loan fund and the trustee of USA Commercial Mortgage are asking the federal judge in Riverside to allow them to proceed with the involuntary bankruptcy case against USA Investment Partners.

Attorneys for USA Investment Partners object.

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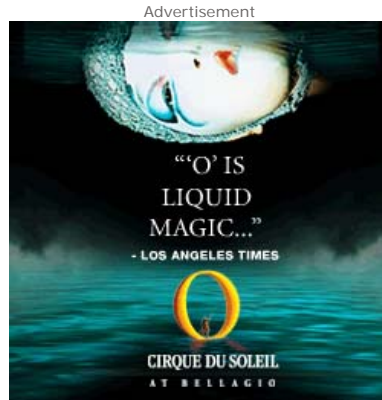
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"The receiver is necessary in order to avoid the web of dysfunction, conflict and waste associated with the bankruptcy cases. The administration of the bankruptcy cases has been fraught with conflicts of interest, self-serving tactics and the resultant waste of the debtor's assets," attorneys for USA Investment Partners argue.

Attorneys for the USA Capital Diversified fund and USA Commercial say that Milanowski pledged assets for a \$58 million loan to investors in the fund but transferred some of the collateral to others, including investor Sal Reale, a reputed associate of former mob boss John Gotti.

"We, unlike Mr. Milanowski, did not steal the creditors' assets," attorney Marc Levinson said in a response to USA Investment Partners' arguments. "We are instead reminded of Brer Rabbit asking not to be thrown in the briar-patch as we consider his plea to allow a receiver picked by his partner to administer the (USA Investment Partners) estate."

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