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Judge criticizes parties in USA Capital case

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A federal judge on Monday lambasted both sides in a dispute that stems from the failure of USA Capital, a private lender that filed for bankruptcy in April 2006 with \$962 million in assets belonging to 6,000 investors.

U.S. District Judge Robert Jones said Compass Partners, the New York equity firm that bought rights to service loans from USA Capital, was accused of breaching its fiduciary duty to investors

The judge mentioned allegations that Compass failed to obtain investor approval for actions taken with loans and that Compass took payments for its claims before paying a share to investors.

But the judge also chastised Donna Cangelosi, the leader of the Lenders Protection Group, and said some of the group's actions against Compass appeared to violate the orders of bankruptcy Judge Linda Riegler.

USA Capital solicited money from investors around the country for commercial loans secured by real estate. The Las Vegas private lending firm became insolvent and filed for bankruptcy after borrowers stopped paying on loans and USA Capital began paying its investors with money belonging to other investors.

Bankruptcy Judge Linda Riegler confirmed a bankruptcy reorganization plan for USA Capital earlier this year.

As part of a reorganization of USA Capital, Compass paid \$67 million for the right to handle about 65 loans and for ownership rights to other loans. The Lenders Protection Group opposed the reorganization plan.

Earlier this year, the lenders group sent a letter to borrowers telling them that Compass was no longer authorized to collect payments on the loans it acquired.

"It appears there are allegations of substantial nonconformance with these (bankruptcy) orders," Jones said.

Jones said the Lenders Protection Group's may be civilly or criminally in contempt of court for violating the bankruptcy judge's order.

The federal judge said there had been "high pressure fear-mongering sales tactics," referring to statements that the Lenders Protection Group made on its Web site and in direct mail letters to investors.

Jones quoted the group's comments about a "kangaroo court" and references to Riegler as "Judge Judy." Jones quoted the lenders group asking: "Does a circus have this many high-wire acts going on at once?"

Walter Herring, a partner with the prominent Texas law firm Fulbright & Jaworski, defended the lender group's leader.

"Donna Cangelosi has been vilified very much in this hearing today. I think that vilification was a little unjustified," Herring said.

Cangelosi's eyes were ringed in red, and she appeared to be sobbing at the end of the hearing.

Jones on Monday said the injunctions ordered by Riegle stand and he added that he would strengthen those injunctions with restrictions on both Compass and the lenders group.

In two weeks, Jones plans to order Compass to hire another company as a loan servicing agent for USA Capital or get a license as a mortgage broker in Nevada. Alternatively, Jones may appoint a receiver to represent Compass' interests.

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