

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

_____)	
In re:)	Case No.
)	
)	
)	
)	Chapter
Debtor.)	
_____)	
,)	
Plaintiff)	A.P. No.
v.)	
,)	
Defendant)	
_____)	

ORDER OF REFERRAL TO MEDIATION

The Court having conducted a hearing concerning this matter on _____, and based on this Court's authority found in 11 U.S.C. sections 105, 327, Fed. R. Evid. 706, Fed. R. Bankr. Proc. 7016 and 9014 and MLBR 7016 (1)(a), it is hereby ORDERED as follows:

1. The use of mediation as administered by the Real Estate Bar Association for Massachusetts ("REBA") with respect to this [contested matter] [Adversary Proceeding] is hereby approved, and the Debtor and his or her counsel are authorized to execute the Mediation Agreement ("Agreement") to be provided by REBA.

2. Within five (5) days of the issuance of this Order, the parties or their counsel are directed to contact REBA concerning the mediation program rules, the appointment of a mediator and the scheduling of the mediation session:

Andrea M. Hardy, Administrative Assistant
REBA
50 Congress Street, Suite 600
Boston, MA 02109
Phone (617) 854-7555
Fax (617) 854-7570
Email hardy@reba.net

4. No subpoena, summons, citation, or other process shall be served at or near the location of any mediation session, upon any person entering, leaving or attending any mediation session.

5. The Mediator and the participants in mediation are prohibited from divulging outside of the mediation, any oral or written information disclosed by the Parties or by witnesses in the course of the mediation. No person may rely on or introduce as evidence in any arbitral, judicial, or other proceedings, evidence pertaining to any aspect of the mediation effort, including but not limited to: (a) views expressed or suggestions made by a Party with respect to a possible settlement of the dispute; (b) the fact that another Party had or had not indicated willingness to accept a proposal for settlement made by the Mediator; (c) proposals made or views expressed by the Mediator; (d) statements or admissions made by a Party in the course of the mediation; (e) documents prepared for the purpose of, in the course of, or pursuant to the mediation; (f) statements or actions which may otherwise constitute a waiver of a legally protected privilege; and (g) documents prepared subsequent to the mediation which refer to any of the foregoing. In addition, without limiting the foregoing, Rule 408 of the Federal Rules of Evidence and any applicable federal or state statute, rule, common law or judicial precedent relating to the privileged nature of settlement discussions, mediation or other alternative dispute resolution procedure shall apply. Parties and their counsel may disclose information obtained at the mediation session to members of their respective organizations who shall also be bound by the confidentiality provisions of this Rule. Information otherwise discoverable or admissible in evidence, however, does not become exempt from discovery, or inadmissible in evidence, merely by being used by a Party in or relating to a mediation session. These provisions shall not preclude a Party, its counsel or the Mediator from responding in confidence to appropriately conducted inquiries or surveys concerning the use of mediation generally.

6. The disclosure by a party of privileged information to the mediator shall not waive or otherwise adversely affect the privileged nature of the information.

7. The mediator shall not be compelled to disclose to the court or to any person outside the mediation conference any of the records, reports, summaries, notes, communication, or other documents received or made by a mediator while serving in such capacity. The mediator shall not testify or be compelled to testify in regard to the mediation in connection with any arbitral, judicial, or other proceeding. The mediator shall not be a necessary party in any proceedings relating to the mediation. Aside from proof of actual fraud or unethical conduct, there shall be no liability on the part of, and no cause of action shall arise against, any person who serves as a mediator hereunder on account of any act or omission in the course and scope of such person's duties as a mediator.

8. Following the mediation, REBA will notify the Court if the matter has been settled, and the parties shall then file the appropriate pleadings for approval of the settlement as may be required or appropriate under the Bankruptcy Code or Rules. In the event that settlement has not been reached and further mediation is believed to be

unwarranted, REBA shall so notify the Court. No other information concerning the mediation may be given to the Court by REBA, the mediator or any party.

Signed in said District this ____ day of _____, 2009.

U.S. Bankruptcy Judge