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Co-Counsel to the Jointly Represented Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
General Growth Properties, Inc., et al.)	Case No. 09-11977 (ALG)
)	
Debtors.)	Jointly Administered
)	

**DEBTORS' MOTION IN LIMINE TO LIMIT THE TESTIMONY OF METLIFE
INSURANCE COMPANY'S RULE 30(B)(6) REPRESENTATIVES AT THE JUNE 24,
2009 HEARING**

INTRODUCTION

On Friday of last week, the GGP Debtors took the depositions of three witnesses -- Brian Casey, John Menne, and David Politano -- who had been offered by MetLife Insurance Company as corporate representatives pursuant to Fed. R. Civ. P. 30(b)(6). Despite the affirmative obligation imposed on a company to educate a Rule 30(b)(6) witness on the areas of inquiry contained within the 30(b)(6) notice, the knowledge of each of these Metlife witnesses fell far short of satisfying this requirement. To the contrary, the depositions were replete with incomplete answers and admissions that the representative whom MetLife had designated on a



given topic had not, in fact, obtained the necessary information to provide an answer on that topic. Of particular importance for purposes of the June 24 hearing, with respect to topic number 4, “Any prerequisites, limitations or restrictions on Your [MetLife’s] ability to refinance or modify loan terms” (Ex. A, Rule 30(b)(6) Notices), the corporate designees identified the MetLife Real Estate Investments Committee as the decision-making body with knowledge of this topic. Yet none of the three corporate designees tendered by MetLife were members of the Investments Committee, and none of those designees even spoke with a single member of the committee to obtain information about MetLife’s ability to refinance or modify loan terms in preparation for their depositions.

MetLife was well aware that the depositions of these witnesses were designed to elicit information to be used at the June 24 hearing less than a week away. The deposition notice was served on June 4, more than two weeks before the depositions were taken. MetLife therefore had ample time to educate its witnesses on the twelve areas of inquiry set forth in the deposition notice -- including Topic 4, which directly relates to arguments raised by MetLife in its Motion to Dismiss briefing. Given the expedited nature of this hearing and this Court’s expressed desire to resolve the various motions to dismiss rather than hold yet another round of hearings, MetLife’s failure to provide witnesses with knowledge about this area of inquiry cannot be excused, and should not be without the typical consequences --*i.e.*, MetLife should be barred from presenting any evidence regarding what MetLife would or might have done with regard to extending or refinancing any of the loans at issue in MetLife’s Motion to Dismiss. Put differently, MetLife should be held to what its corporate representatives testified to -- and nothing more.

ARGUMENT

I. Rule 30(b)(6) Imposes Stringent Affirmative Obligations On A Corporation To Educate Its Designated Representatives On The Matters Identified In The Notice.

Courts in this Circuit and elsewhere repeatedly have held that “under Rule 30(b)(6), the deponent ‘must make a conscientious good-faith endeavor to designate the persons having knowledge of the matters sought by [the party noticing the deposition] and to prepare those persons in order that they can answer fully, completely, unequivocally, the questions posed ... as to the relevant subject matters.’” *Tailored Lighting, Inc. v. Osram Sylvania Products, Inc.*, 255 F.R.D. 340, 349 (W.D.N.Y. 2009 Feb. 13, 2009) (*S.E.C. v. Morelli*, 143 F.R.D. 42, 45 (S.D.N.Y. 1992), quoting *Mitsui & Co. (U.S.A.), Inc. v. Puerto Rico Water Resources Auth.*, 93 F.R.D. 62, 67 (D.P.R. 1981). “A deponent under Rule 30(b)(6) has ‘an affirmative obligation to educate himself as to the matters regarding the corporation. This includes all matters that are known or reasonably available to the corporation.’” *Honda Lease Trust v. Middlesex Mut. Assur. Co.*, 2008 WL 3285242, at *3 (D. Conn. 2008) (quoting *Concerned Citizens v. Belle Haven Club*, 223 F.R.D. 39, 43 (D.Conn. 2004).

The obligation “to present and prepare a Rule 30(b)(6) designee goes beyond matters personally known to that designee or to matters in which that designee was personally involved.” *Bank of New York v. Meridien BIAO Bank Tanzania Ltd.*, 171 F.R.D. 135, 151 (S.D.N.Y. 1997) (quoting *United States v. Taylor*, 166 F.R.D. 356, 361, *aff'd*, 166 F.R.D. 367 (M.D.N.C. 1996)). “If the designee does not possess personal knowledge of the matters identified in the notice, the corporation on whose behalf the designee is testifying must prepare the designee so that he may provide ‘knowledgeable and binding answers for the corporation.’” *Gucci America, Inc. v. Exclusive Imports Int'l*, 2002 WL 1870293, *8 (S.D.N.Y. 2002) (quoting *Dravo Corp. v. Liberty Mut. Ins. Co.*, 164 F.R.D. 70, 75 (D.Neb. 1995)); *Twentieth Century Fox Film Corp. v. Marvel*

Enterprises, Inc., No. 01 Civ. 3016(AGS)(HB), 2002 WL 1835439, at *2 (S.D.N.Y. Aug. 8, 2002) (“If the persons designated by the corporation do not possess personal knowledge of the matters set out in the deposition notice, the corporation is obligated to prepare the designees so that they may give knowledgeable and binding answers for the corporation.”) (internal quotation marks and citations omitted). Thus, under Rule 30(b)(6), the “corporate deponent has an affirmative duty to make available ‘such number of persons as will’ be able ‘to give complete, knowledgeable and binding answers’ on its behalf.” *In re Willkie Farr & Gallagher LLP to Quash Subpoena*, 2008 WL 3884380, at *2 (S.D.N.Y. 2008) (quoting *Reilly v. Natwest Markets Group Inc.*, 181 F.3d 253, 268 (2d Cir. 1999) (quoting *Securities & Exchange Comm’n v. Morelli*, 143 F.R.D. 42, 45 (S.D.N.Y. 1992))). Further:

The Rule 30(b)(6) designee does not give his [or her] personal opinions. Rather, he [or she] presents the corporation's position on the topic. Moreover, the designee must not only testify about facts within the corporation's knowledge, but also its subjective beliefs and opinions. The corporation must provide its interpretation of documents and events. The designee, in essence, represents the corporation just as an individual represents him or herself at a deposition.

Honda Lease Trust, 2008 WL 3285242, at *3 (quoting *Krasney v. Nationwide Mut. Ins. Co.*, No. 3:06 CV 1164(JBA)(JGM) 2007 U.S. Dist. LEXIS 90876, 2007 WL 4365677 (D. Conn. Dec. 11, 2007) (quoting *United States v. Taylor*, 166 F.R.D. 356, 361 (M.D.N.C. 1996)). “Producing an unprepared witness is tantamount to a failure to appear.” *Kyoei Fire & Marine Ins. Co., Ltd. v. M/VMaritime Antalya*, 248 F.R.D. 126, 152 (S.D.N.Y. 2007) (internal quotation marks and citation omitted).

II. In Offering Witnesses Who Lacked Knowledge And Failed To Adequately Prepare On Key Issues -- And In Particular, Topic 4 -- MetLife Failed To Satisfy Its Affirmative Obligations Under Rule 30(b)(6).

MetLife's corporate designees were unable to offer any knowledgeable testimony in response to questions relating to a number of topics identified in the deposition notice.¹ The most significant for purposes of the June 24 hearing involves Topic 4, MetLife's ability to refinance or modify loan terms. In its Motion to Dismiss briefing, MetLife repeatedly argues that the Debtors "made no attempt to approach MetLife about a refinancing or extension" of the Mezzanine Loan or Providence Mall Senior Loan before filing Chapter 11, and that it therefore is "pure speculation" to guess whether or not they would "be able to refinance in 2010 or negotiate an extension of their loan maturities." (MetLife Motion at 2-3, 15); (*see also* Reply at 8) (arguing that "[t]he Property Debtors did not even attempt to engage MetLife in such discussions" relating to refinancing or negotiating an extension of loan maturity dates)² MetLife's witnesses, however, were unable to offer testimony regarding what requirements a borrower must satisfy before MetLife will even consider such a modification. Although the Debtors repeatedly during the depositions pressed MetLife's corporate representatives for answers on questions relating to limitations on the refinancing or modification of loan terms, the representatives designated by MetLife admitted they did not personally know the answers and had not attempted to obtain that information from persons with knowledge. Given this, MetLife should be bound to its witnesses' testimony, and thus should now be precluded from offering any testimony that MetLife would have refinanced or modified the terms of any of the Debtors' loans.

¹ Although the Debtors are focusing on the corporate designees' lack of knowledge with regard to Topic 4 for purposes of the June 24 hearing, the Debtors reserve the right to challenge the designees' inability to address other topics.

² *See also, e.g.*, MetLife Reply at 6 (arguing that MetLife "would not be asking the Property Debtors to wait until default" before seeking refinancing; rather, "it would be asking them to contact MetLife to negotiate an extension or refinancing and to make a decision to file chapter 11 only when necessary to their business"); *id.* at 7-8 (arguing that there was ample time for the Debtors to "either obtain refinancing or negotiate an extension of the maturity dates of" the Providence Place Mall, White March and Hughes-Summerlin loans).

A. MetLife Failed To Adequately Prepare Its Designees.

Each of MetLife's three designees testified that MetLife's Real Estate Investments Committee decides whether to extend or refinance terms on maturing loans (unless the asset exceeds \$125 million, at which point the decision is made by the board of directors) (Ex. B, Menne Dep. at 9:2 - 10:3; Ex. C, Casey Dep. at 21:9 - 21:24; Ex. D, Politano Dep. at 15:17 - 15:22) Yet none of the designees interviewed a single member of the Investments Committee in preparing for their depositions. (See Ex. B, Menne Dep. at 14:13 - 16:18, 18:24 - 19:22, 22:13 - 23:2 (spoke only with associates in his regional office, and primarily with two of these individuals); Ex. C, Casey Dep. at 31:20 - 33:13 (spoke with only two people -- a member within his regional group and in-house counsel); Ex. D Politano Dep. at 11:8 - 11:14 (met with lawyers)). Indeed, the testimony of MetLife's corporate designees demonstrates that their overall deposition preparation was inadequate:

Menne's Lack Of Preparation: When asked what he did to prepare for his deposition, Menne responded that he spoke with individuals who work in his regional office, primarily two specific people, for a total of about 25 minutes combined. The primary topic discussed was the mortgage rating file. He also reviewed certain files "just to reacquaint myself with the loan and its key attributes." (Ex. B, Menne Dep. at 14:13 - 16:18, 18:24 - 19:22) In addition to not speaking with anyone from the Investments Committee for purposes of Topics 4 or 5, he did not speak with anyone from Capital Markets to prepare for Topic 6. (*Id.* at 21:14 - 21:22) Nor did he speak with any of his peers at the regional director level. (*Id.* at 96:20 - 96:24) And as to Topic 1, benefits of affiliation with GGP, Menne relied solely on his conversation with the two people who work for him and his personal views. (*Id.* at 124:8 - 124:20) ("Well, I spoke to Nicole and I spoke to Mark Fritz. I personally thought about it, and pretty quickly concluded that

there really is no advantage or benefit, because GGP is primarily focused on retail, whereas our collateral is office.”

Casey’s Lack Of Preparation. Casey “reviewed some current financial information that was both provided to Met prior to the filing and post-filing” regarding White Marsh, a few motions to dismiss of other movants, and “[s]ome of our own MetLife loan documentation, legal documentation, deed of trust.” (Ex. C, Casey Dep. at 31:20 - 33:13) He spoke with only two MetLife employees -- Steven Taylor, team leader for the White Marsh Mall property, “to get his thoughts on some of the areas of inquiry,” and an in-house counsel. (*Id.* at 33:14-34:21) Aside from counsel, he spoke with no one from outside MetLife. (*Id.* at 35:7 - 35:11)

Politano’s Lack Of Preparation. Politano’s preparation consisted of the following: “We [Politano, Menne and Casey] met with our lawyers. We produced documents. Reviewed some of the court paperwork. That kind of stuff.” (Ex. D, Politano Dep. at 11:8 - 12:13) With regard to Topic 6, testimony on communications made at any time on or before the petition date between MetLife and any borrower or mortgage property regarding the loan, Politano merely talked with his team members. (*Id.* at 17:19 - 18:5, “I did talk to my guys, yeah.”) He “didn’t do anything in particular to prepare for number 9” -- MetLife’s observations, assessments and evaluations of the projected time frame or conditions necessary for the improvement or reemergence of the commercial real estate finance market -- because it is the business he is “involved with.” (*Id.* at 161:23 - 162:9) As to Topic 12, MetLife’s position on whether, prior to the borrower's bankruptcy filing, any event of default had occurred under any loan and all facts supporting your position,” Politano relied on “just my general knowledge of the loan” and did not speak with anyone to determine whether an event of default may have occurred before bankruptcy. (*Id.* at 184:8 - 185:4) And with regard to Topic 7 -- consideration, analysis or

review of the financial condition or operations of the borrowers -- even though he looked at the annual mortgage rating form for the Providence Mall property, he did not discuss the document with its drafter at MetLife to explain its reasoning or clarify anything in it. (*Id.* at 104:9 - 25)

B. The Corporate Designees Lacked Knowledge Regarding Topic 4.

Against this backdrop, it is not surprising that the designees were unable to provide meaningful answers to questions relating to a number of the requested topics³ -- including, for purposes of the June 24 hearing, Topic 4. Despite the fact that MetLife repeatedly argued in its Motion to Dismiss briefing that GGP did not approach MetLife about refinancing or modifying the terms of the loans at issue before filing Chapter 11, MetLife did not put up any members of its Investments Committee, and the three corporate designees were unable to answer questions about the restrictions applied by that Committee in determining whether a loan can or should be extended or modified:

Menne's Lack Of Knowledge. When directly asked whether “there is any internal guideline or policy or decision made by someone within MetLife as to the maximum exposure that MetLife is willing to have to GGP-owned borrowers,” Menne responded that “[i]t is likely handled by our investment committee.” (Ex. B, Menne Dep. 74:2-74:17) Yet when asked what restrictions MetLife has on the amount of loan exposure permitted to any one borrower, Menne replied, “there is a certain level. I'm not familiar with the exact level.” (*Id.* at 74:2 - 74:17) Nor did he know whether or not the Investments Committee made a decision to decrease its exposure to GGP borrowers within the last year. (*Id.* at “I don't know that.”) Menne also was unable to answer questions relating to government and regulatory restrictions on MetLife's investments,

³ As previously noted, the Debtors reserve their rights to challenge all testimony in which the MetLife witnesses were unprepared and, accordingly, to seek appropriate remedies. For purposes of the June 24 hearing, however, the Debtors are focusing on the infirmities relating to Topic 4.

including specifically whether MetLife has been required to constrict the volume of new loans it issues. (*Id.* at 139:11 - 140:10, “I’m not aware of any of that.”)

Given that he is not a member of the Investments Committee and did not ask any questions of any Investments Committee members, he was not in a position to assess which loans would or would not get refinanced:

Q. And so, based on that, you're not in a position to look, portfolio wide, at what MetLife has with GGP and say which loans would likely not get refinanced and which would?

A. I would not be the individual making that call.

(*Id.* at 78:17 - 79:14) Ultimately, given his lack of knowledge, Menne was not able to testify as to whether MetLife would refinance the Hughes-Summerlin loan because “that’s not my call”:

Q. So sitting here today, because you and the investment committee have not considered all of the other factors about the GGP parent organization, you can't say one way or the other whether right now MetLife would refinance the Hughes-Summerlin loan, correct?

...

A. I can tell you right now that in terms of the quality of the real estate and the existing loan amount, it would be something that we would be willing to talk with the borrower and also recommend. How it ultimately shakes out, *that's not my call. I can't comment on that.*

Q. And when you say how it ultimately shakes out, you mean whether or not at the end of the day MetLife would actually refinance the loan, correct?

A. Correct.

(*Id.* at 116:5 - 116:23)

Casey’s Lack Of Knowledge. Although Casey had previously seen the co-lender servicing agreement between MetLife and KBC Bank regarding the White Marsh Mall loan, and recalled that the agreement defined the roles and responsibilities and authority of MetLife with respect to taking action on the loan, he could not recall whether MetLife needs the authority of

KBC Bank to extend the loan maturity date. (Ex. C, Casey Dep. at 51:7 - 51:23) Nor could he recall whether MetLife can consent to loan extensions. (*Id.* at 52:19 - 53:18)

Indeed, even though he is a corporate designee, many of Casey's answers were framed in terms of his own personal knowledge. When asked whether he had knowledge with respect to the Debtors attempting to contact KBC, Casey responded "I do not have knowledge." (*Id.* at 52:19 - 53:18) Likewise, when asked whether MetLife had discussions with KBC regarding extending or refinancing the term of the White Marsh Mall loan, he answered, "Not to my knowledge." (*Id.* at 126:3-126:12) As a corporate designee, Casey was obligated to obtain information reasonably available; it was not enough simply to say he did not have knowledge when, as shown above, he failed to undertake the necessary investigation to attempt to obtain the relevant information. Given that he did not do any such investigation, and likewise did not ask any questions of Investment Committee members in preparing for the deposition, Casey had no knowledge of Investment Committee member Jim Hills' assertion in December 2008 that "we wouldn't do a loan with GGP now, given their problems." (*Id.* at 152:13 - 152:25)

Politano's Lack Of Knowledge. Given that he is not an Investments Committee member and did not obtain any information from Committee members in preparation for his deposition, Politano did not know how difficult it would be to obtain Investments Committee approval for a loan in excess of 300 million dollars for a GGP-related entity. He could offer an opinion only from the perspective of his position as a regional director. (Ex. D, Politano Dep. at 188:13 - 189:6) ("I don't know. We didn't present a loan like that.") Although he had spoken generally with David Charles at GGP, who handles loan refinancings and extensions, about the possibility of MetLife taking over the CMBS loan relating to Providence Place Mall, it never

reached the point where the issue was discussed with the Investments Committee to determine whether it would agree to do a loan that size. (*Id.* at 188:13 - 189:6)

Like Casey, Politano also was unable to answer questions about the declaration of Investments Committee member Jim Hills, who stated in writing that “[w]e wouldn't do a loan with GGP now, given their problems.” (*Id.* at 133:18 - 134:1) Given that he never spoke to Hills in preparing for his deposition, Politano admitted he had no basis to comment on Hills’ position or decision. (*Id.* at 133:18 - 134:1)

C. In Light Of Its Corporate Designees’ Lack Of Preparation And Knowledge, MetLife Should Be Barred From Offering Any Testimony Or Evidence Relating To Topic 4 That Is Different From What Its Corporate Designees Testified To At Deposition.

MetLife’s failure to prepare its designees on Topic 4 warrants the exclusion of any testimony or evidence by MetLife regarding whether or not it would extend, refinance or otherwise modify the terms of the loans at issue in MetLife’s Motion to Dismiss if requested to do so. In light of MetLife’s failure to comply with the Rule 30(b)(6) obligation to produce a knowledgeable and prepared 30(b)(6) designee, this Court has the discretion to preclude evidence relating to the topics on which the witness was unable to adequately testify. *Reilly v. Natwest Mkts. Grp. Inc.*, 181 F.3d 253, 268 (2d Cir. 1999); *see Lucky Brand Dungarees, Inc. v. Ally Apparel Resources, LLC*, 2009 WL 72982, at *8 (S.D.N.Y. 2009) (granting request for sanctions where plaintiffs proffered a single 30(b)(6) witness who “was largely ignorant of the history of plaintiffs’ obligations under” the agreement at issue, “had failed to make the necessary inquiries to prepare for such a deposition, and had not participated in a meaningful search for documents.”).

Put simply, where -- as here -- a 30(b)(6) corporate designee is unable to adequately respond to certain relevant areas of inquiry, and thus testified as to a lack of knowledge, that lack

of knowledge testimony should bind the corporation, and this Court can prohibit that party from presenting evidence regarding that area of inquiry. *See generally Kingsway Financial Serv's, Inc., v. Pricewaterhouse-Coopers LLP*, 2008 WL 5336700, at *9 (S.D.N.Y. Dec. 22, 2008); *McDevitt & St. Co. v. Marriott Corp.*, 713 F. Supp. 906, 933 n. 7 (E.D. Va. 1989), *rev'd on other grounds*, 911 F.2d 723 (4th Cir.1990) (where plaintiff's Rule 30(b)(6) witness "was unfamiliar with the underlying assumptions and specific calculations used by other Marriott employees to project [the lost management fee component of] Marriott's damage figures," plaintiff was prohibited from presenting evidence regarding that area of damages). That is exactly what the Court should do here. MetLife should be held to the "no knowledge" admissions and testimony of its corporate representatives; it is what the Rule requires, the authorities hold, and the only fair result.

CONCLUSION

Because MetLife failed to comply with its Rule 30(b)(6) obligation that it adequately prepare and present Rule 30(b)(6) witnesses with sufficient knowledge to bind the corporation on the areas of inquiry, MetLife should be barred from offering testimony or evidence regarding its ability to refinance or modify the terms of the loans at issue in MetLife's Motion to Dismiss and whether or not it would have done so.

Date: June 23, 2009

Respectfully submitted,

s/ James H.M. Sprayregen

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Attorneys for Debtors and Debtors in Possession

Exhibit A

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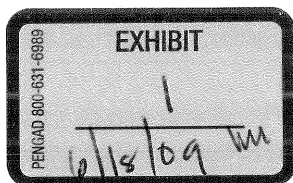
**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re)	
)	Chapter 11
GENERAL GROWTH PROPERTIES, INC.,)	
et al.,)	Case No. 09-11977 (ALG)
)	
Debtors.)	Jointly Administered
)	

**DEBTORS' NOTICE OF RULE 30(b)(6) DEPOSITION OF
METROPOLITAN LIFE INSURANCE COMPANY**

You are hereby notified that on _____, June ____, 2009, beginning at 9:30 a.m. at the office of Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022, or at such time and place as the parties may otherwise agree, Kirkland & Ellis, co-counsel to the Jointly Represented Debtors, will take the depositions of Metropolitan Life Insurance Company for purposes of discovery and any other purpose authorized by the Federal Rules of Bankruptcy Procedure and the Federal Rules of Civil Procedure. The deposition testimony will be recorded by stenographic means and will continue from day to day until it is completed.

Pursuant to Rule 7030 of the Federal Rules of Bankruptcy Procedure and Rule 30(b)(6) of the Federal Rules of Civil Procedures, Metropolitan Life Insurance Company, shall designate one or more officers, directors, managing agents, or other persons who consent to testify on its



behalf. The persons so designated shall testify as to matters known or reasonably available to the organization regarding the areas of inquiry listed in Exhibit A hereto.

Respectfully submitted,

June 4, 2009

/s/ Sallie G. Smylie

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EXHIBIT A

I. DEFINITIONS

1. "You," "Your," or "Metlife" shall mean Metropolitan Life Insurance Company as well as Metlife officers, directors, employees, agents, attorneys, and any other person acting or purporting to act on Metlife's behalf.

2. "GGP" shall mean General Growth Properties, Inc. and its affiliates and subsidiaries, including any GGP Parent and Borrower(s).

3. "GGP Parent" shall mean General Growth Properties, Inc., GGP, L.P., Rouse LLC and/or The Rouse Co. LP.

4. "White Marsh Mall" shall mean White Marsh Mall located at 8200 Perry Hall Boulevard, Baltimore, Maryland, 21236.

5. "Providence Place Mall" shall mean Providence Place Mall located at One Providence Place, Providence, Rhode Island, 02903.

6. "Hughes-Summerlin Properties" shall mean collectively those properties related to Howard Hughes Properties, Limited Partnership; 10000 West Charleston Boulevard, LLC; 1120/1140 Town Center Drive, LLC; 9901-9921 Covington Cross, LLC.

7. "Mortgage Properties" shall mean White Marsh Mall, Providence Place Mall, and the Hughes-Summerlin Properties.

8. "Borrowers" shall mean Debtors White Marsh Mall, LLC; White Marsh Mall Associates; White Marsh Phase II Associates; White Marsh General Partnership; Howard Hughes Properties, Limited Partnership; 10000 West Charleston Boulevard, LLC; 1120/1140 Town Center Drive, LLC; 9901-9921 Covington Cross, LLC; Rouse Providence LLC; Providence Place Holdings, LLC and their subsidiaries, predecessors, successors, officers,

directors, employees, attorneys, agents, and any other person or entity acting or purporting to act on their behalf.

9. “Loan” or “Loans” shall mean the loans secured by Providence Place Mall, White Marsh Mall, and the Hughes-Summerlin Properties.

II. AREAS OF INQUIRY

1. The advantages and benefits to Borrowers or the Mortgage Properties of their affiliation with GGP Parent.

2. The advantages and benefits to Lenders arising from Borrowers’ or the Mortgage Properties’ affiliation with GGP Parent.

3. The timing and nature of financial and operational information that You received concerning the Borrowers and Mortgage Properties.

4. Any prerequisites, limitations, or restrictions on Your ability to refinance or modify Loan terms.

5. Your consideration, evaluation, or discussion internally or with others relating to renegotiating or refinancing the Loans.

6. Communications made at any time on or before the Petition Date between You and any Borrower or Mortgage Property regarding the Loan.

7. Any consideration, analysis, or review of the financial condition or operations of the Borrowers.

8. Your observations, assessments, and evaluations of the condition of the commercial real estate finance market and/or the availability of financing since September 2008, including the opportunities for refinancing or originating loans since September 2008.

9. Your observations, assessments, and evaluations of the projected time frame or conditions necessary for the improvement or reemergence of the commercial real estate finance market.

10. Your observations, assessments, and evaluations of the current and anticipated future capacity of the commercial real estate finance market and/or opportunities to refinance commercial real estate debt.

11. Your position on whether any Loan is oversecured and all facts supporting your position.

12. Your position on whether, prior to the Borrowers' bankruptcy filing, any event of default had occurred under any Loan, and all facts supporting your position.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:) Chapter 11
)
GENERAL GROWTH)
PROPERTIES, INC., et al.,) Case No. 09-11977 (ALG)
) Jointly Administered
Debtors)

CERTIFICATE OF SERVICE

I, Kathryn F. Taylor, certify that I am not less than 18 years of age, and that on the date set forth below, I caused a true and correct copy of the foregoing Debtors' Notice of Rule 30(b)(6) Deposition of Metropolitan life Insurance Company to be made upon, counsel Metropolitan life Insurance Company, James P. Ponsetto by electronic mail.

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: June 4, 2009

/s/Kathryn F. Taylor

Kathryn F. Taylor

Exhibit B

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x
In re: : Chapter
: Case No.
GENERAL GROWTH PROPERTIES, INC., : 09-11977
et al, : (ALG)
:
Debtors. : (Jointly
- - - - - Administered)

DEPOSITION OF JOHN MENNE
New York, New York
June 18, 2009

Reported by:
MARY F. BOWMAN, RPR, CRR
JOB NO. 23348-A

1 MENNE

2 Q. And is your office also responsible
3 for deciding whether to extend or refinance or
4 renegotiate terms on maturing loans that MetLife
5 has in the southwest?

6 A. We make the recommendation to the
7 investment committee.

8 Q. Who is on the investment committee
9 that you just mentioned?

10 A. It is chaired by Mark Wilsmann. It
11 also includes Gary Otten. Jim Hills. Greg
12 Reed.

13 I have to think because each of them
14 plays roles sometimes of equity versus debt, but
15 for the purposes of your question, are they on
16 the committee, they are on the committee.

17 And Nancy Abbott.

18 Q. Is the investment committee the
19 decision-making body for whether to extend or
20 renegotiate a loan that's maturing?

21 A. Typically they are. Certain sized
22 assets have -- need to go to the board of
23 directors, so -- but the majority of
24 transactions can be approved.

25 Q. What size does an asset have to be

1 MENNE

2 before it has to go to the board of directors?

3 A. 125 million.

4 Q. As the regional director for the
5 Los Angeles office at MetLife, does -- do you
6 have any responsibilities for what are known as
7 the Hughes or Summerlin properties in Las Vegas?

8 A. Yes.

9 Q. What is your group's responsibility
10 with respect to the Summerlin properties in
11 Las Vegas?

12 A. Primarily to provide asset management
13 responsibilities. So interacting with the
14 borrower, advising the borrower when there are
15 property maintenance issues at the property,
16 addressing the borrower's requests for
17 refinances, modifications, items of those
18 natures.

19 Q. Do you have any contracts or
20 agreements with either a GGP parent level entity
21 or with Rouse Company that kind of appoints
22 MetLife as the asset manager for the Summerlin
23 properties?

24 A. When you say -- help me understand.
25 Asset management contracts?

1 MENNE

2 Q. And is it your understanding that
3 MetLife has selected you as their corporate
4 representative to testify as to the
5 Hughes-Summerlin properties with respect to
6 areas of inquiries numbers 1 through 7 and 11
7 and 12?

8 A. Yes.

9 Q. And you understand that you are giving
10 that testimony as a representative of MetLife;
11 is that correct?

12 A. Yes.

13 Q. What did you do to prepare to give
14 testimony on behalf of MetLife today?

15 A. I spoke to my associates in my office,
16 primarily Ms. Jaquez, Mr. Fritz, regarding the
17 current situation of our loan.

18 I also reviewed certain files within
19 our, you know, within our filing system, just to
20 reacquaint myself with the loan and its key
21 attributes.

22 Q. When did you speak with Ms. Jaquez in
23 the course of your preparation to give testimony
24 today?

25 A. This week.

1 MENNE

2 yesterday, about how long did you speak with
3 her?

4 A. 15 minutes.

5 Q. Can you tell me the topics or areas
6 that you and Ms. Jaquez spoke about yesterday?

7 A. Whether or not she had had any
8 communication with the borrower, whether or not
9 she had -- by the -- during the last six months
10 or so.

11 Whether or not she had had any direct
12 communication with our loan servicer, whether
13 there was any maintenance issues or other
14 potential defaults that she was aware of,
15 whether she had received any financial
16 information and the timing and receipt of that
17 financial information.

18 Those are the key areas.

19 Q. Had Ms. Jaquez had any direct
20 communication with the borrower during the last
21 six months?

22 A. No direct communication.

23 Q. When you say it like that, it makes me
24 think there is some indirect communication.

25 A. Let me clarify. She had received

1 MENNE

2 notices with respect to additional payments that
3 are due, requesting the financial information --
4 financial information and any other requirements
5 that the borrower has.

6 They are the primary on the day-to-day
7 operations.

8 Q. Does Capmark have any responsibility
9 for extending or refinancing loans on behalf of
10 MetLife?

11 A. No.

12 Q. So for example, does Capmark operate
13 like a master servicer or a special servicer
14 that you might see in a CMBS context?

15 A. Yes.

16 Q. And is Capmark similar to a master
17 servicer?

18 MR. TICOLL: Objection, vague.

19 Q. You can still answer.

20 A. I'm not intimately familiar with
21 master servicers versus special servicers
22 because we are not in the CMBS world in terms of
23 my responsibilities.

24 Q. You also mentioned that you spoke to
25 Mr. Fritz in preparation to give testimony here

MENNE

1
2 today; is that correct?

3 A. Yes.

4 Q. When did you speak to Mr. Fritz?

5 A. Yesterday.

6 Q. Approximately how long did you and
7 Mr. Fritz speak?

8 A. 15 minutes.

9 Q. And was yesterday the only time that
10 you spoke to Mr. Fritz in preparation for your
11 testimony?

12 A. Yes.

13 Q. What topics or areas did you and
14 Mr. Fritz discuss in preparation for your
15 testimony here today?

16 A. Similar to the points that I discussed
17 with Ms. Jaquez yesterday. In fact, they were
18 on the call together.

19 Q. You mentioned that you reviewed files
20 in preparation for your deposition today; is
21 that correct?

22 A. Yes.

23 Q. What files did you review?

24 A. The mortgage rating file, as well as a
25 disk of documents that I received -- well, they

1 MENNE

2 renegotiating or refinancing loans." Do you see
3 that?

4 A. Um-hm.

5 Q. Did you talk to anybody from the
6 capital markets group about topic number 5?

7 A. No.

8 Q. I believe you said earlier that for
9 the purposes of refinancing or modifying loan
10 terms, that that is done through an investment
11 committee; is that right?

12 A. Yes.

13 Q. Did you speak to anybody from the
14 investment committee in preparation to testify
15 on topic number 4, which is, "Any prerequisites,
16 limitations or restrictions on your ability to
17 refinance or modify loan terms"?

18 A. I did not speak to anyone on the
19 investment committee in the last week with
20 respect to Hughes-Summerlin. However, we
21 periodically speak to the investment committee
22 about loans in our portfolio that we are
23 interested in refinancing or making some other
24 form of modification, and in the past, we have
25 had preliminary discussions with respect to

1 MENNE

2 Hughes-Summerlin.

3 Q. And when you say that you have had
4 preliminary discussions with your investment
5 committee about Hughes-Summerlin, when did those
6 discussions take place?

7 A. During -- we have monthly calls to
8 review loans in our portfolio, and so I couldn't
9 tell you specifically what date, but it was
10 within the last six months.

11 Q. And who participates on the monthly
12 calls that you and the investment committee are
13 on?

14 A. Typically several members of the
15 committee, and it -- it could rotate, just
16 depending on availability. It sometimes
17 includes Mark Wilsmann. It usually includes
18 Gary Otten, and sometimes Jim Hills.

19 Can I make a correction also. I'm not
20 sure if I included -- when you asked earlier
21 about members of the committee, Gary Otten is a
22 member of the committee. I'm not sure if I
23 mentioned that or not. I just want to clarify
24 that.

25 Q. In addition to yourself and members of

1 MENNE

2 Q. Well, what restrictions does MetLife
3 have on how much loan exposure it has to any one
4 borrower?

5 A. It -- there is -- there is a certain
6 level. I'm not familiar with the exact level.

7 Q. Do you know if there is any internal
8 guideline or policy or decision made by someone
9 within MetLife as to the maximum exposure that
10 MetLife is willing to have to GGP-owned
11 borrowers?

12 A. It is likely handled by our investment
13 committee.

14 Q. Do you know if the investment
15 committee has made a decision to decrease its
16 exposure to GGP borrowers within the last year?

17 A. I don't know that.

18 Q. Who would know that?

19 A. Mark Wilsmann.

20 Q. What is Mr. Wilsmann's role within
21 MetLife?

22 A. He is the managing director and chair
23 of our real estate portfolio management group.

24 Q. Would a decision to restrict or
25 decrease MetLife's overall exposure to GGP have

1 MENNE

2 Anyway, if you understand what that
3 means, you can answer.

4 A. Let me say this. If -- I couldn't
5 tell you how many loans MetLife has with GGP, so
6 I don't -- I don't know where this loan fits
7 into that.

8 Q. OK. Fair enough.

9 And so, based on that, you're not in a
10 position to look, portfolio wide, at what
11 MetLife has with GGP and say which loans would
12 likely not get refinanced and which would?

13 A. I would not be the individual making
14 that call.

15 Q. OK. Does MetLife receive financial
16 information and reporting from the Summerlin
17 properties on some sort of repeat basis?

18 A. Yes.

19 Q. How often does MetLife receive
20 financial and performance information?

21 A. It varies between quarterly and
22 annually. At least annually.

23 Q. Specifically what types of reports or
24 financial information does MetLife receive?

25 A. The most recent package of information

1 MENNE

2 Mr. Kadolph after she received -- or after he
3 received the summary?

4 A. I do not know.

5 Q. And Mr. Kadolph's note makes reference
6 to, "We met with a couple of member" -- it
7 should be members -- "of your team in December,"
8 first sentence of the second paragraph. Do you
9 see that?

10 A. Yes.

11 Q. Do you know as you sit here today what
12 may have been discussed in that meeting in terms
13 of approaching maturity dates, for example?

14 A. No.

15 Q. Do you know if there was a follow-up
16 meeting between Ms. Clark or someone in her
17 department and Mr. Kadolph after she sent the
18 summary?

19 A. I do not know.

20 Q. Did you speak to Ms. Clark or any of
21 your other peers at the regional director level
22 in preparation to testify about topic 6 in the
23 dep notice here today?

24 A. No, I did not.

25 Let me clarify one thing there. You

1 MENNE

2 refinancing. Whether or not -- I mean how that
3 is all going to shake out, there is way too many
4 factors to --

5 Q. So sitting here today, because you and
6 the investment committee have not considered all
7 of the other factors about the GGP parent
8 organization, you can't say one way or the other
9 whether right now MetLife would refinance the
10 Hughes-Summerlin loan, correct?

11 MR. TICOLL: Objection to form.

12 A. I can tell you right now that in terms
13 of the quality of the real estate and the
14 existing loan amount, it would be something that
15 we would be willing to talk with the borrower
16 and also recommend.

17 How it ultimately shakes out, that's
18 not my call. I can't comment on that.

19 Q. And when you say how it ultimately
20 shakes out, you mean whether or not at the end
21 of the day MetLife would actually refinance the
22 loan, correct?

23 A. Correct.

24 Q. And as part of the decision-making
25 process that the investment committee would

1 MENNE

2 Q. Does GGP -- does a GGP parent-level
3 entity handle any construction or development
4 that may occur on the Hughes-Summerlin
5 properties?

6 MR. TICOLL: Objection, form.

7 A. I don't know. I just don't know.

8 Q. What did you do -- if you look back at
9 the deposition notice, what did you do under
10 areas of inquiry -- what did you do to prepare
11 to testify here today as to item number 1, "the
12 advantages and benefits to borrowers or the
13 mortgage properties of their affiliation with
14 GGP parent"?

15 A. Well, I spoke to Nicole and I spoke to
16 Mark Fritz. I personally thought about it, and
17 pretty quickly concluded that there really is no
18 advantage or benefit, because GGP is primarily
19 focused on retail, whereas our collateral is
20 office.

21 And we just -- we couldn't come up
22 with any reasons or advantages or benefits of
23 the affiliation with the parent.

24 Q. Well, other than your, you know, your
25 brainstorming, did you try and figure out if

1 MENNE

2 Q. In the last year, has the -- has
3 MetLife decreased the number or the dollar value
4 of new loans that it has issued?

5 A. Well, the amount of new loans, the
6 volume has declined, but as I said earlier, it
7 is much, much more related to the fact that
8 there is just far fewer transactions to do. It
9 is not -- you know -- there is fewer deals out
10 there.

11 Q. MetLife is an insurance company,
12 correct?

13 A. Yes.

14 Q. And as an insurance company, aren't
15 there government and regulatory restrictions on
16 MetLife's investments?

17 A. I believe there are.

18 Q. And --

19 A. Yes.

20 Q. And some of those restrictions require
21 MetLife to keep a certain amount of cash on hand
22 or cash on its balance sheet to -- well, it
23 would require MetLife to keep cash on hand,
24 correct?

25 A. I'm not -- I don't know the specifics.

1 MENNE

2 I'm aware that there are regulatory
3 requirements. I can't specifically say what
4 they are, though.

5 Q. And have you -- has MetLife had any
6 issues arise over the last year where
7 maintaining regulatory compliance has required
8 MetLife to constrict the volume of new loans
9 that it issues?

10 A. I'm not aware of any of that.

11 Q. Who would be responsible for
12 monitoring MetLife's issuance of new loans as it
13 relates to its regulatory requirements?

14 A. Ultimately Mark Wilsmann would be made
15 aware of that. Whether or not he would be part
16 of the decision-making process, I have no idea.

17 Q. Obviously -- I hear you that your
18 particular office apparently has never reached
19 some threshold where somebody within MetLife has
20 said no more issuance for you, but obviously
21 there is a budget somewhere at MetLife, right?
22 MetLife can't just go on issuing new loans
23 forever on everything, right?

24 MR. TICOLL: Objection to form.

25 A. There would be some level where

Exhibit C

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:)
) Chapter 11
GENERAL GROWTH PROPERTIES,)
INC., et al.,) Case No. 09-11977
) (ALG)
 Debtors.) (Jointly Administered)
-----)

C O N F I D E N T I A L
30(b)(6) DEPOSITION OF
METLIFE BANK, N.A.
by
BRIAN CASEY
New York, New York
Thursday, June 18, 2009

Reported by:
MAYLEEN CINTRON, RMR, CRR
JOB NO. 23347

1 Casey - CONFIDENTIAL

2 Q. So you talked about origination of
3 loans. How about refinancings and loan
4 extensions?

5 Does that all, similarly, have to
6 get approved by the Real Estate Investments
7 Committee if you were to refinance or modify
8 the loan? Strike that.

9 Do you need the authority of the
10 Real Estate Investments Committee to extend
11 the maturity date of a loan?

12 A. Not always.

13 Q. When is it required?

14 A. I believe the threshold is a
15 material modification or extension, requires
16 Investment Committee approval.

17 Q. And what would be an extension that
18 would be considered material that would
19 require the approval of the Committee?

20 A. I believe we have approximately 90
21 to 120 days is considered immaterial.

22 Q. So anything over 120 days would be
23 considered material?

24 A. I believe that's the guideline.

25 Q. And you would need the Committee's

1 Casey - CONFIDENTIAL

2 A. I thought it said "Casey" on it.
3 That's why I said I didn't see it before. I
4 believe I saw a PDF copy of this before.

5 Q. For the record, Casey Exhibit 1 is
6 captioned Debtors' Notice of Rule 30(b)(6)
7 Deposition of MetLife Bank, N.A.

8 Mr. Casey, do you understand that
9 MetLife has designated you to testify to areas
10 of inquiry 1 through 7 and 11 through 12 as
11 they relate to White Marsh Mall?

12 (Witness reviewing document.)

13 A. Yes.

14 Q. Sir, were you familiar with these
15 topics before you read the Deposition Notice?

16 MR. PONSETTO: Objection to form.

17 You can answer.

18 (Witness reviewing document.)

19 A. Yes.

20 Q. What did you do to prepare for this
21 deposition so that you could testify on behalf
22 of MetLife?

23 A. I reviewed some current financial
24 information that was both provided to Met
25 prior to the filing and post-filing.

1 Casey - CONFIDENTIAL

2 Q. And that was specific to White
3 Marsh?

4 A. Yes.

5 Q. So other than financial information
6 that was provided by the borrower both before
7 and after the bankruptcy filing, were there
8 any other documents that you reviewed to
9 prepare for today's deposition?

10 A. Reviewed some of the court files
11 today.

12 Q. Do you recall which ones those
13 were?

14 A. I don't know if I have them by the
15 right name. But I guess it would be our
16 motions and other motions filed in the court.

17 Q. Have you reviewed the Motion to
18 Dismiss other parties other than MetLife?

19 A. Yes.

20 Q. Do you recall which ones those
21 were?

22 A. I think it is one from the ING
23 group.

24 Q. Okay. How about Wells Fargo or
25 Helios?

1 Casey - CONFIDENTIAL

2 A. I believe Helios.

3 Q. Okay.

4 A. But I don't recall I reviewed Wells
5 Fargo.

6 Q. So other than the motions to
7 dismiss of other movants, did you review
8 anything else other than what we talked about?

9 A. Some of our own MetLife loan
10 documentation, legal documentation, deed of
11 trust.

12 Q. Is that it?

13 A. I think so.

14 Q. And other than conversations with
15 counsel, did you engage in any discussions
16 with colleagues at MetLife in order to prepare
17 for today's deposition?

18 A. Yes.

19 Q. Who did you speak with?

20 A. Steve Taylor.

21 Q. What was the nature of your
22 conversation with Steve?

23 A. To get his thoughts on some of the
24 areas of inquiry.

25 Q. Which areas of inquiry did you

1 Casey - CONFIDENTIAL

2 solicit Steve's thoughts on?

3 A. Page 1 of the exhibit.

4 Q. I'm sorry.

5 A. I'm sorry. It is numbered page 4.

6 First listing --

7 Q. Area number 1?

8 A. -- of area of inquiry, page 4. And
9 most of page 5, but not all. And nothing on
10 page 6.

11 MR. PONSETTO: Whenever you hit a
12 logical point in your questioning, just
13 for a bathroom break.

14 MS. PAGONIS: A minute or two.

15 Q. Other than Steve Taylor, did you
16 speak with anyone else at MetLife with respect
17 to your preparation for today's deposition?

18 A. Mary Gleason, G-L-E-A-S-O-N.

19 Q. What is Mary's title?

20 A. She is in-house counsel with Met.
21 I'm not sure of her exact title.

22 Q. Did you speak with Linda Lyon?

23 A. Not about the areas of inquiry, no.

24 Q. What did you speak to Linda about?

25 A. Some of the review of the financial

1 Casey - CONFIDENTIAL

2 information I mentioned earlier.

3 Q. This was with respect to preparing
4 for today's deposition?

5 A. It was a request of her to gather
6 information for me.

7 Q. Did you speak to anyone outside of
8 MetLife with the exception, obviously, of
9 counsel with respect to preparing for today's
10 deposition?

11 A. No.

12 MS. PAGONIS: Let's take a
13 two-minute break.

14 (Whereupon, a short recess was
15 taken from 10:23 a.m. to 10:27 a.m.)

16 BY MS. PAGONIS:

17 Q. I would like to turn now and focus
18 on the White Marsh Mall loan.

19 So I understand, you were regional
20 director at the time this loan was issued in
21 2007; is that correct?

22 A. Yes.

23 Q. Therefore, you had a role in the
24 issuance of this loan to the White Marsh Mall
25 Debtors?

1 Casey - CONFIDENTIAL

2 White Marsh loan?

3 A. Linda Lyon.

4 Q. Do you know who her contact is at
5 KBC Bank?

6 A. I do not know that.

7 Q. You mentioned some administrative
8 tasks that MetLife provides as servicer of
9 this loan for KBC Bank. I just wanted to
10 follow-up on that.

11 Does MetLife need the authority of
12 KBC Bank to extend the loan maturity date?

13 A. I don't recall.

14 Q. Have you seen the co-lender
15 servicing agreement between MetLife and KBC
16 Bank?

17 A. I believe I saw it around the time
18 that it was participated to KBC.

19 Q. Is it your recollection that that
20 document would define the roles and
21 responsibilities and authority of MetLife with
22 respect to taking action on the loan?

23 A. Yes.

24 MS. PAGONIS: I'm going to renew my
25 request for that document.

1 Casey - CONFIDENTIAL

2 MR. PONSETTO: What are you asking
3 for?

4 RQ MS. PAGONIS: The co-lender
5 servicing agreement between MetLife
6 and
7 KBC Bank which I previously had asked
8 for.

9 MR. PONSETTO: I think we produced it.

10 MS. PAGONIS: If you could check on
11 that.

12 MR. PONSETTO: In fact, I'm
13 positive we produced it. If you're
14 talking about the KBC/MetLife Servicing
15 Agreement, we produced that.

16 MS. PAGONIS: Okay. I'll try to
17 find it before the deposition is over.

18 BY MS. PAGONIS:

19 Q. Mr. Casey, do you know what
20 approval rights KBC Bank has over whether
21 MetLife can consent to loan extensions?

22 A. I don't recall.

23 Q. In preparation for this dep, you
24 didn't speak to anyone at KBC, correct?

25 A. Correct.

1 Casey - CONFIDENTIAL

2 Q. If you look on that same page,
3 Paragraph 18, four lines down, the sentence
4 starting "Consistent with the financial
5 health..." Do you see where I'm at, sir?

6 A. Yes.

7 Q. That sentence continues on. It
8 says, "...no efforts were ever made by the
9 Debtors to contact MetLife or KBC to refinance
10 or extend the loan."

11 I want to focus on that sentence
12 with respect to the statement relating to KBC.

13 Sir, do you have knowledge with
14 respect to the Debtors making efforts to
15 contact KBC?

16 MR. PONSETTO: Objection. Beyond
17 the scope. You can answer.

18 A. I do not have knowledge.

19 Q. Turning to page 2 of the Motion to
20 Dismiss, Paragraph 1. Six lines down from the
21 top, the sentence beginning, "The net
22 operating income debt service coverage ratio
23 which measures how many dollars of NOI are
24 available to pay debt service for the White
25 Marsh Mall property was 1.93 X," \$1.93 X.

1 Casey - CONFIDENTIAL

2 A. Yes, please.

3 Q. Has MetLife had any discussions
4 with KBC regarding extending the term of the
5 White Marsh Mall loan?

6 MR. PONSETTO: Same objection. You
7 can answer.

8 A. Not to my knowledge.

9 Q. Has MetLife had any discussions
10 with KBC regarding refinancing the White Marsh
11 Mall loan?

12 A. Not to my knowledge.

13 Q. Does MetLife have restrictions,
14 either self-imposed or from insurance company
15 regulations, on how much exposure it can have
16 to any one borrower?

17 MR. PONSETTO: Objection to form.

18 A. Sorry. Could you repeat the two
19 parts, please? Restrictions, I got the
20 insurance company regulations, and what was
21 the other one?

22 Q. And I can break it up.

23 A. Please.

24 Q. Does MetLife have any restrictions
25 on how much exposure it can have to any one

1 Casey - CONFIDENTIAL

2 referring to new business. When we use terms
3 like that, that is typically what we're
4 referring to.

5 Q. He didn't tell you what he meant by
6 the statement, did he?

7 MR. PONSETTO: Objection.

8 Argumentative.

9 A. He did not.

10 Q. He did not. He didn't send you
11 this e-mail, right?

12 A. That is correct.

13 Q. And you didn't have a discussion
14 with him about what he meant when he said "we
15 wouldn't do a loan with GGP now, given their
16 problems"?

17 A. That is correct.

18 Q. And no one told you back in
19 December 2008 that Jim Hills from MetLife had
20 concluded "we wouldn't do a loan with GGP now,
21 given their problems," correct?

22 MR. PONSETTO: Objection. Asked
23 and answered. Beyond the scope. Form.

24 A. It is correct that no one told me
25 that he said this.

Exhibit D

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x
In re: : Chapter
: Case No.
GENERAL GROWTH PROPERTIES, INC., : 09-11977
et al, : (ALG)
:
Debtors. : (Jointly
- - - - - Administered)

DEPOSITION OF DAVID V. POLITANO
New York, New York
June 18, 2009

Reported by:
MARY F. BOWMAN, RPR, CRR
JOB NO. 23348-B

POLITANO

1
2 Providence Place Mall property?

3 A. Yes.

4 Q. And you understand that as a corporate
5 representative, you're testifying on behalf of
6 the company, correct?

7 A. Yes.

8 Q. What did you do to prepare today to
9 give testimony on the areas of inquiry for which
10 you have been designated as a corporate
11 representative?

12 A. We met with our lawyers. We produced
13 documents. Reviewed some of the court
14 paperwork. That kind of stuff.

15 Q. When you say "we," who is we?

16 A. Me.

17 Q. You? OK.

18 When did you meet with your lawyers?

19 A. Last night.

20 Q. For how long did you meet -- for how
21 long did you meet with your lawyers?

22 A. I think it was probably a couple of
23 hours.

24 Q. Did anyone other than you and counsel
25 attend the meeting?

POLITANO

1
2 A. Yes.

3 Q. Who also attended?

4 A. You mean in addition to -- just to
5 clarify, in addition to Gary, other lawyers, or
6 do you mean setting aside the lawyers?

7 Q. Setting aside lawyers. You could have
8 packed the room with lawyers. Were there any
9 nonlawyers there other than you?

10 A. Yes. John Menne and Brian Casey.

11 Q. Anyone other than yourself, Mr. Menne
12 and Mr. Casey?

13 A. No.

14 Q. Did you review any documents -- other
15 than during the meeting with the lawyers, did
16 you review any documents to help refresh your
17 recollection about events that you might be
18 asked to testify on here today?

19 A. Before meeting with the lawyers last
20 night?

21 Q. Before or on your own afterwards.

22 A. Afterwards, no, not really. Before
23 that, we had to produce the documents before
24 that. So yeah.

25 Q. Were you involved in collecting

1 POLITANO

2 in preparation for giving testimony as a
3 30(b)(6) witness here today?

4 A. I may have. Yeah.

5 Q. Do you recall when you spoke to
6 Mr. Wilson in connection with preparing for your
7 testimony today?

8 A. It would have been over this, you
9 know, last couple of weeks, providing these
10 documents, and from -- I just forget. They went
11 bankrupt in mid April. So, you know, it became
12 active kind of mid April.

13 Q. Who within MetLife, to your knowledge,
14 is responsible for originating loans in the
15 northeast region? Is that your department?

16 A. That is my team.

17 Q. Is your department also responsible
18 for making recommendations to some sort of
19 investment committee within MetLife with respect
20 to extensions or renegotiations on existing
21 loans?

22 A. Yes.

23 Q. And who is on the investment committee
24 that you submit recommendations to?

25 A. You want the names of the individuals?

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2 Q. Did you have any discussions with
3 Ms. Clark in preparation for giving testimony
4 here today?

5 A. No.

6 Q. If you could look on Deposition
7 Exhibit 1, under "Areas of Inquiry," if you
8 could please look at topic number 6. It asks
9 for testimony on communications made at any time
10 on or before the petition date between you and
11 any borrower or mortgage property regarding the
12 loan. Do you see that?

13 A. I see it.

14 Q. What did you do to prepare yourself to
15 give testimony on behalf of the company on topic
16 number 6?

17 A. I'm sorry, do you mean did I do
18 anything to prepare to answer number 6?

19 Q. Well, obviously your -- you can
20 testify as to your own communications with the
21 borrower or the property. But did you do
22 anything to find out within MetLife what other
23 people's communications with the borrower may
24 have been?

25 A. I did talk to my team members. This

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1
2 question relates to the Providence Place Mall,
3 right?

4 Q. Correct.

5 A. Yeah. I did talk to my guys, yeah.

6 Q. Who did you talk to about their
7 communications --

8 A. Chris and Michael Hofheinz.

9 Q. What is Mr. Hofheinz's position?

10 A. Michael is a team leader on my team.

11 Q. What does he do as a team leader?

12 A. He has members of his team that manage
13 the mortgage portfolio under me.

14 Q. Is his team responsible for managing
15 the Providence Place loan?

16 A. Um-hm, yes.

17 Q. Were you the regional director for the
18 northeast region in approximately 2005, when the
19 Providence Place loan was originated?

20 A. Yes.

21 Q. And were you involved in reviewing or
22 recommending that MetLife take over from Lehman
23 Brothers the mezzanine loan for that mall?

24 A. Yes.

25 Q. Can you tell me how it was that

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1
2 A. I think that's self-explanatory.

3 Q. Is Mr. Wilson referring to, for
4 example, the collapse of the commercial real
5 estate finance market?

6 MR. TICOLL: Objection, asking him to
7 speculate what someone else thinks.

8 A. He could have.

9 Q. Well, Mr. Politano, were you
10 designated here today as the 30(b)(6) witness?

11 A. Yes.

12 Q. On topic 7, any consideration,
13 analysis or review of the financial condition or
14 operations of the borrowers?

15 A. Yes.

16 Q. And in preparation for testifying
17 about that subject, did you take a look at the
18 annual mortgage rating form for the Providence
19 Mall property?

20 A. Yes.

21 Q. And did you go back to Mr. Wilson and
22 ask him to clarify for you any portions of his
23 comments that you found were vague or you
24 couldn't figure out exactly what he meant?

25 A. No, not that I recollect.

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2 response, please. And I think he is talking
3 about we wouldn't do a loan now, given their
4 current problems, meaning this would be a lesson
5 learned, if we knew that it was a new loan.
6 That's what I think he is referring to.

7 Is that what you are asking me?

8 Q. I'm not asking you what Mr. Hills is
9 referring to. Mr. Hills' writing speaks loud
10 and clear.

11 What I want to know is, have you heard
12 anyone else within MetLife make the same or a
13 similar statement?

14 MR. TICOLL: Objection, form.

15 A. I don't recall anyone else making a
16 statement like that. And again, we are talking
17 about new loans here.

18 Q. Well, if you go on to the next page of
19 this document, MET GGP02661 -- by the way, did
20 you talk to Mr. Hills -- before we get to the
21 next page, did you talk to Mr. Hills at all in
22 preparing to give your 30(b)(6) testimony here
23 today?

24 A. No.

25 Q. So I take it you did not, in

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2 preparation for this deposition here today, get
3 Mr. Hills' thoughts or impressions about whether
4 his statement, "We wouldn't do a loan with GGP
5 now, given their problems," you don't have a
6 basis, sitting here today, to say he is talking
7 about new loans or extensions or refinancing or
8 what it is he is talking about there, correct?

9 A. I didn't have that conversation with
10 him. I am just following what the string of
11 e-mails is.

12 Q. I'm just making sure, because your
13 last answer said -- you know, you said that he
14 meant only new loans. I want to make sure you
15 haven't actually spoken to Mr. Hills to talk to
16 him about what he meant in this document.
17 Correct?

18 A. No, that's correct.

19 Q. Going on to the next page, the first
20 paragraph, about midway through, there is a
21 quote there. It says, "Our collateral's
22 ownership is structured such that GGP has paid
23 management fees to lease and operate the
24 buildings. The bankruptcy shouldn't affect
25 their operation directly. However, it could

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2 certain. This was just the northeast region.

3 Q. With respect to loans that have
4 pending or close maturity dates, what is the
5 highest loan to value ratio that you have
6 experienced at which Met Life has been willing
7 to either extend that loan for a long period of
8 time or to renegotiate that loan somehow?

9 A. Again, you are talking about Met Life,
10 the whole Met Life or just the northeast?

11 Q. Well, I am talking about all of Met
12 Life because that was what was in our 30(b)(6)
13 notice. If you can only talk about the
14 northeast region, that's --

15 A. I mean, there are -- I mean, I can't
16 state specifically. I know there are higher
17 loan to values and, again, I'm not trying to be
18 coy. I'm trying to be accurate. There are
19 higher loan to value deals in other regions that
20 are either in process of -- we are in
21 discussions with the borrower to negotiate terms
22 and loan to values are pretty high.

23 Q. I want to move to topic 9 in the
24 30(b)(6) notice.

25 What did you do to prepare for topic 9

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2 regarding your observations, assessments and
3 evaluations of the projected time frame or
4 conditions necessary for the improvement or
5 reemergence of the commercial real estate
6 finance market?

7 A. It is the business I'm involved with,
8 so I didn't do anything in particular to prepare
9 for number 9.

10 Q. Do you read a lot of trade
11 publications or research that Met Life receives
12 via subscription or otherwise?

13 A. I do read some of that, yes.

14 Q. What particular publications does Met
15 Life subscribe to that you read on a regular
16 basis?

17 A. On a regular basis? I would say
18 occasionally. We have access to Torto Wheaton
19 Research. I think we still have access to
20 Reiss, although I'm not 100 percent certain
21 there, and then there is some trade magazines
22 like Commercial Mortgage Alert, which, I, you
23 know, they are just more like gossip magazines
24 or subscriptions. Commercial Real Estate Alert.

25 Q. OK. And have you read articles that

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2 knowledge, prior to the bankruptcy filing, was
3 there any event of default that occurred with
4 respect to the mezzanine loan?

5 MR. TICOLL: Objection to the extent
6 it calls for a legal conclusion.

7 A. I'm not aware of any.

8 Q. What did you do to prepare to testify
9 today as to topic number 12 in the 30(b)(6)
10 notice, Exhibit 1, it says, "Your position on
11 whether, prior to the borrower's bankruptcy
12 filing, any event of default had occurred under
13 any loan and all facts supporting your
14 position."

15 What did you do to testify to that
16 topic here today?

17 A. It was just my general knowledge of
18 the loan.

19 Q. Well, did you talk to anybody about --
20 did you talk to Mr. Wilson or even to counsel
21 about whether there may have been an event of
22 default on the loan prior to the bankruptcy
23 filing?

24 A. I did not have a specific conversation
25 if there was an event of default on the loan.

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2 Again, my understanding is there wasn't any --

3 Q. OK.

4 A. -- default on the loan.

5 Q. So it is Met Life's position that
6 there was -- just so the record is clear, is it
7 Met Life's position that there was no event of
8 default that occurred on the loan prior to the
9 bankruptcy filing in this case?

10 A. To -- it is Met Life's position that
11 there wasn't a payment default before that, and
12 to the best of my knowledge, there wasn't any
13 other default before the bankruptcy filings.

14 Q. If a borrower wants to seek from Met
15 Life a significant extension on their loan,
16 let's say an extension in excess of two years,
17 is there a -- any special process or procedure
18 that Met Life employs for an extension of that
19 length?

20 A. In excess of two years?

21 Q. Um-hm.

22 A. I'm not aware of any.

23 Q. Does Met Life sometimes do extensions
24 of loans for two years or more?

25 A. Yes.

1 POLITANO

2 Q. Do you recall any more as you sit here
3 today?

4 A. I don't. I don't.

5 Q. How difficult in your view would it be
6 to get committee -- to get -- it is not a loan
7 committee. What is the -- I can't remember the
8 name of the committee that you guys have. It is
9 getting late.

10 MR. SORKIN: Investment committee?

11 MS. TAYLOR: Investment committee,
12 thank you.

13 Q. How difficult would it be, in your
14 view, to get investment committee approval at
15 Met Life of a new -- of a loan in excess of 300
16 million dollars for a GGP-related entity?

17 MR. TICOLL: Objection to form.

18 A. I don't know. We didn't present a
19 loan like that.

20 Q. And I believe you mentioned earlier
21 that you had talked to David Charles generally
22 about the possibility of Met Life taking over
23 the senior loan, CMBS loan relating to
24 Providence Place Mall. Do you recall that?

25 A. Yes.

1 POLITANO

2 Q. Did that idea ever get to the point
3 where you discussed it with the investment
4 committee to see if they would agree to do a
5 loan that size?

6 A. It did not.

7 Q. And in order for Met Life to take over
8 the CMBS portion of the loan, Met Life would
9 have to be willing to take on, between the
10 mezzanine loan and the senior loan, a total
11 indebtedness in excess of 300 million dollars,
12 correct, total loan amount?

13 A. You know, we didn't get far enough
14 down the road with terms. So I don't know what.

15 Q. To your knowledge, has Met Life ever
16 granted an extension or waived a loan default
17 for an SPE entity when its sponsor faced loan
18 defaults on other loans or on other properties?

19 MR. TICOLL: Objection, form.

20 A. I'm sorry, can you just repeat the
21 question.

22 Q. Sure. Let's break it down. To your
23 knowledge, has Met Life ever granted an
24 extension where the sponsor was in default, not
25 necessarily on your loan, but you knew that the