

**IT IS SO ORDERED.**

**Dated: 01:54 PM September 13 2007**



**UNITED STATES DISTRICT COURT  
NORTHRN DISTRICT OF OHIO  
EASTERN DIVISION**

In re: ) CASE NO. 07-51261  
) (Jointly Administered with Case Nos.  
EVERGREEN HOMES, LLC, *et* ) 07-51262 and 07-51263)  
*al* )  
) Chapter 11  
Debtors. )  
) Judge Marilyn Shea-Stonum  
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**AGREED INTERIM ORDER**

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This matter came before the Court upon the motion of the Official Committee of Unsecured Creditors (the "Committee") seeking the appointment of a Chapter 11 trustee in this case over Evergreen Homes, LLC ("Evergreen Homes"), Evergreen Investment Corporation ("Evergreen Investment") and Evergreen Builders, LLC ("Evergreen Builders") pursuant to section 1104(a) of the Bankruptcy Code and Bankruptcy Rules 2007.1 and 9014 (the "Motion"). The Motion was supported in response by the United States Trustee and Capital

Crossing, a secured creditor. The Motion was opposed by the three Debtor in Possession entities, Evergreen Homes, Evergreen Investment, and Evergreen Builders.

The evidentiary hearing on the Committee's Motion to Appoint a Chapter 11 Trustee was scheduled to be heard on September 10, 2007 at 1:30 P.M. Prior to said hearing, the parties informed the Court that an agreement had been reached. In an effort to resolve the Committee's Motion to Appoint a Chapter 11 Trustee only, on an interim basis, the parties, by and through their represented counsel noted below, agree as follows:

1. Effective immediately, David Willan and Mandie Pugh shall have no check writing or money transfer authority on behalf of Evergreen Homes, Evergreen Investment, or Evergreen Builders unless approved in writing in advance by the Committee. Upon the expiration of thirty days from the date of this Order, David Willan and Mandie Pugh shall have no further check writing or money transfer authority whatsoever for any and all accounts of Evergreen Homes, Evergreen Investment, or Evergreen Builders.
2. Within the next thirty (30) days, David Willan shall surrender management control of both Evergreen Homes and Evergreen Builders and as President of Evergreen Investment to a third party (the "Replacement Manager") to be designated in accordance with this Interim Agreed Order. Mr. Willan may still be involved with certain limited business efforts of the Debtors such as the sale of real estate that do not conflict with the provision noted above at the discretion of the Replacement Manager and approval of the Committee.

3. Within the next seven (7) days, the Debtors in Possession shall submit at least three (3) names of potential candidates for the Replacement Manager that could replace Mr. Willan in his current managerial role for all of the Debtor companies. From those three (3) names, the Committee may, but is not required if reasonably justified, select one of the three potential candidates to replace Mr. Willan as manager of Evergreen Homes and Evergreen Builders, and as President of Evergreen Investment. The Replacement Manager will be employed by the Debtors and not an equity holder in any of the Debtors.
4. In the event that a Replacement Manager acceptable to the Committee can not be identified in the next thirty (30) days or if subsequent to the employment of a Replacement Manager, that person can no longer continue as the Replacement Manager for any reason, the Debtors and Debtors in Possession jointly consent without further evidentiary hearing to the appointment of a Chapter 11 Trustee.
5. Evergreen Homes, Evergreen Investment and Evergreen Builders shall, effective herein, waive the attorney-client privilege for the specific and limited purpose of authorizing the Debtors' former legal counsel, Roetzel & Andress L.P.A. and any other attorneys previously engaged by the Debtors to share documents and information and communicate directly with the Committee and its attorneys about all matters involving its former legal representation.

6. Effective immediately, neither Evergreen Investment, nor Evergreen Homes, nor Evergreen Builders shall provide further extensions of credit or advances of money or services to Brittain Holdings, LLC (“Brittain Holdings”), Brittain Entertainment, LLC (“Brittain Entertainment”), Brianna Fullerton, Daniel Ringer, or David Willan without prior Court approval.
7. Brittain Holdings shall within the next thirty (30) days convey and assign all its then existing assets to Evergreen Investment, including, but not limited to all its real estate holdings, note(s) payable from Daniel Ringer in the principal amount of \$525,000, any other notes payable from other parties, and the mortgages on the property located at 1110 Brittain Road, Akron, Ohio owned by Daniel Ringer (the “Brittain Road Property”).
8. Within the next ten (10) days, and immediately preceding the assignment of assets from Brittain Holdings to Evergreen Investment, Brittain Holdings and/or David Willan shall first payoff a mortgage on the Brittain Road Property in favor of Barbara Eckman recorded on June 22, 2006 (the “Eckman Mortgage”) and shall provide verification as to the same to the Committee. Furthermore, Brittain Holdings and David Willan shall insure that a release of mortgage to be filed for same within thirty (30) days following a payoff of the Eckman Mortgage, and thereafter covenant to the Debtors and the Committee that the mortgages assigned from Brittain Holdings to Evergreen Investment shall be a first and best lien on the Brittain Road Property.

9. Brittain Holdings shall not provide further extension of credit or advances of money from funds originally derived from the Evergreen Investment line of credit to Daniel Ringer, Brittain Entertainment, LLC, Brianna Fullerton or David Willan until after the assignment in Paragraph 7 is completed.
10. Daniel Ringer shall, within the next fifteen (15) days, sign an amended and restated promissory note and mortgage, if applicable, to Brittain Holdings and assigned to Evergreen Investment on the following terms:
  - i. Principal amount of \$350,000 with simple interest at 8% per annum from March 16, 2007;
  - ii. Principal amount of \$175,000 with simple interest at 8% per annum from April 28, 2007;
  - iii. 30 year amortization schedule with monthly payments starting October 1, 2007 with a balloon payment due within 60 months.
11. Evergreen Homes, Evergreen Investment, Evergreen Builders, David Willan, Brittain Holdings, and Daniel Ringer shall cooperate in all respects to effectuate the terms and conditions set forth herein.
12. This Interim Order does not waive or release any claims that Evergreen Homes, Evergreen Investment, Evergreen Builders or the Committee might have against Brittain Holdings, Brittain Entertainment, Brianna Fullerton, Daniel Ringer or David Willan.

IT IS SO ORDERED.

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