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11 UNITED STATES BANKRUPTCY COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 In re  
15 CMR MORTGAGE FUND, LLC,  
16 CMR MORTGAGE FUND II, LLC,  
17 CMR MORTGAGE FUND III, LLC,  
18 Debtors.

Case Nos. 08-32220 TEC  
09-30788 TEC  
09-30802 TEC

Chapter 11

- 19  Affects **FUND I**  
20  Affects **FUND II**  
21  Affects **FUND III**  
22  Affects **ALL FUNDS**

**MOTION FOR APPROVAL OF  
SETTLEMENT AMONG THE FUNDS,  
THE EQUITY COMMITTEE, AND  
CANPARTNERS REALTY HOLDING  
COMPANY IV LLC AND CANYON-  
RELATED ENTITIES, CARR, SCD, AND  
SC DEVELOPMENT PURSUANT TO  
BANKRUPTCY RULE 9019**

Date: September 22, 2010  
Time: 9:30 a.m.  
Place: Courtroom 23  
235 Pine Street  
San Francisco, CA 94104

Judge: The Hon. Thomas E. Carlson

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10 Possession CMR Mortgage Fund II, LLC

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27 Attorneys for Debtor and Debtor In  
28 Possession CMR Mortgage Fund, LLC

1           The Official Committee of Equity Security Holders (“Equity Committee”), jointly  
2 with debtors CMR Mortgage Fund, LLC (“Fund I”), CMR Mortgage Fund II, LLC (“Fund  
3 II”), and CMR Mortgage Fund III, LLC (“Fund III”) (collectively, the “Funds” and  
4 sometimes referred to as the “Debtors”), debtors-in-possession in Chapter 11 Case Nos.  
5 08-32220, 09-30788, and 09-30802 respectively, bring this Motion For Approval Of  
6 Settlement Among The Funds, The Equity Committee, And Canpartners Realty  
7 Holding Company IV, LLC, Carr, and SCD Pursuant To Bankruptcy Rule 9019  
8 (“Settlement Motion”). The Settlement Motion seeks an order of the Bankruptcy Court  
9 approving a settlement (the “Settlement”) of disputes between the Equity Committee and  
10 the Funds on the one hand (collectively the “CMR Parties), and Canpartners Realty  
11 Holding Company IV LLC (“Canyon”) (and Canyon-related entities Canpartners IV Royal  
12 Kunia LLC and Canpartners IV Royal Kunia Property LLC), SCD Kunia, LLC (“SCD”),  
13 Stanford Carr, and Stanford Carr Development, LLC (“SC Development”) on the other  
14 hand (for these purposes only, collectively the “Canyon Parties”).

15           **Elements of Settlement**

16           The proposed Settlement involves the following essential elements, all related in various  
17 ways to a loan jointly made by Canyon and Fund I to a real estate developer in Hawaii (the  
18 “Hawaii Loan”):

19           (a)     The dismissal of pending litigation in the Bankruptcy Court by Fund I against the  
20 Canyon Parties (including Adversary Proceeding No. 08-03148, and appeals from orders granting  
21 relief from stay in the Chapter 11 case), in which Fund I has asserted various claims against the  
22 Canyon Parties for potential damages amounting to as much as \$49.2 million.

23           (b)     The release of claims asserted by Canyon against the Fund I as follows:

24                   (i)     As reflected in proofs of claim filed by Canyon in Fund I’s Chapter 11 case  
25 in the amount of \$5.8 million (“Canyon’s Bankruptcy Claim”). This release of claims by Canyon  
26 also disposes of a pending objection by the Equity Committee to Canyon’s filed proof of claim.

27                   (ii)    The same amounts as asserted in Canyon’s Bankruptcy Claim are alleged as  
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1 counterclaims against Fund I in the Adversary Proceeding, plus Canyon's claims for additional  
2 damages on account of alleged interference by Fund I with Canyon's rights on the Hawaii Loan.  
3 Those additional damages are in unspecified amount until proof at trial, but are alleged to be in the  
4 millions of dollars and involve alleged losses of principal, interest, and fees on Canyon's \$55  
5 million portion of the Hawaii Loan.

6 (c) The release by Carr and Carr-related entities of any claims they may have against  
7 the CMR Parties.

8 (d) The withdrawal of Canyon's objection to confirmation of the Equity Committee  
9 and Debtors Joint Plan of reorganization dated June 24, 2010 (the "Plan").

10 (e) The CMR Parties and the Canyon Parties would each bear their own attorneys' fees  
11 and costs that have been incurred in asserting and defending the various claims against each other.

12 The terms of the Settlement are documented in the Settlement Agreement attached as  
13 Exhibit A hereto. The Settlement Motion is also supported by the Declaration of F. Wayne  
14 Elggren, financial advisor to the Equity Committee, filed herewith, the pleadings and orders on  
15 file in the Funds' Chapter 11 cases, the pleadings and orders on file in the Adversary Proceeding,  
16 and such further evidence and argument as may be presented before or at the hearing on the  
17 Settlement Motion. In summary, each side would drop its claims against the other, Canyon would  
18 withdraw its objection to confirmation of the Plan, and neither side would have any claim for legal  
19 expenses against the other.

20 **Benefits to CMR Parties of Settlement**

21 The CMR Parties and Canyon each believe that their litigation positions have merit, and a  
22 possibility of succeeding. Each recognizes, however, that there is significant uncertainty as to  
23 whether its claims against the other would prevail. There is a more than minimal possibility that  
24 the outcome of further litigation would be no recovery for Fund I and a liability to Canyon of  
25 more than \$5.8 million. The Settlement removes that downside risk of continuing litigation.

26 It is absolutely certain that proceeding to resolve all pending litigation between the parties  
27 would cause each party to incur substantial legal expense going forward, probably amounting to as  
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1 much as \$1 million for the CMR Parties and \$1 million - \$1.5 million for Canyon. Further,  
2 continuing the dispute with Canyon could require the CMR Parties to reserve funds under the Plan  
3 against a possible ruling in Canyon's favor on its Bankruptcy Claim. Holding funds for such a  
4 reserve would reduce the cash flow available for the purposes of implementing the Plan, a  
5 detriment to the level of success that might be achieved under the Plan.

6 Accordingly, the Equity Committee and the Funds have concluded that the Settlement is an  
7 appropriate compromise of these sharply disputed matters, and is in the best interests of creditors  
8 and investors of the Funds. The Equity Committee, exercising its independent business judgment  
9 from the Funds, recommends approval of the Settlement.

10 The CMR Parties therefore urge approval of the Settlement.

11  
12 WHEREFORE, the CMR Parties request entry of an order of this Court approving the  
13 Settlement, and granting such other and further relief as the Court deems proper.

14  
15 Dated: September 1, 2010

McNUTT LAW GROUP LLP

16  
17 By: /s/ Dale L. Bratton

Dale L. Bratton

18 Attorneys for Official Committee  
19 of Equity Security Holders

20 Dated: September 1, 2010

WENDEL, ROSEN, BLACK & DEAN

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23 By: /s/ Elizabeth Berke-Dreyfuss

Elizabeth Berke-Dreyfuss

24 Attorneys for CMR Mortgage Fund, LLC  
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Dated: September 1, 2010

BINDER & MALTER

By: /s/ Robert G. Harris  
Robert G. Harris  
Attorneys for CMR Mortgage Fund II, LLC

Dated: September 1, 2010

MACDONALD & ASSOCIATES

By: /s/ Reno F. R. Fernandez  
Reno F. R. Fernandez, III  
Attorneys for CMR Mortgage Fund III, LLC