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Attorneys For Creditor Charles H. Moore

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In Re:

TECHNOLOGY PROPERTIES LIMITED,
LLC, f/k/a TECHNOLOGY PROPERTIES
LIMITED, INC., a California corporation, f/k/a
TECHNOLOGY PROPERTIES LIMITED, a
California corporation,

Debtor.

Case No.: 13-51589-SLJ-11

Chapter 11

Date: TBD

Time: TBD

Place: United States Bankruptcy Court
280 S. 1st St., Courtroom 3099
San Jose, California

Judge: Honorable Stephen L. Johnson

**EX PARTE MOTION FOR ORDER SHORTENING TIME FOR HEARING ON
CHARLES H. MOORE'S JOINDER TO MOTION OF THE CREDITORS'
COMMITTEE DIRECTING THE APPOINTMENT OF A CHAPTER 11 TRUSTEE
AND REMOVING DEBTOR AS DEBTOR IN POSSESSION**

TO: THE HONORABLE STEPHEN L. JOHNSON, UNITED STATES BANKRUPTCY
JUDGE:

Charles H. Moore ("Creditor Moore"), creditor in the case of Technology Properties
Limited, LLC, (the "Debtor") hereby submits this ex parte motion (the "Ex Parte Motion") for
an order shortening time for notice of hearing on Creditor Moore's joinder motion ("Joinder")

EX PARTE MOTION FOR TIME SHORTENED HEARING ON CREDITOR MOORE'S JOINDER - 1
In re: Technology Properties Limited, LLC, Debtor. US Bankruptcy Court Case No. 13-51589 SLJ
{2655/06/00038274.DOCX}

1 to the Creditors' Committee motion to appoint a chapter 11 trustee and remove Debtor as
2 debtor in possession. (the "Committee Motion").

3 In support of the Ex Parte Motion, Creditor Moore submits the declaration of Kenneth
4 H. Prochnow filed concurrently herewith and respectfully represents as follows:

5 1. The Creditors' Committee filed the Committee Motion on December 16, 2013,
6 to remove Debtor as debtor in possession and to direct the appointment of a chapter 11 trustee
7 based on Debtor's conduct throughout the within proceedings. Hearing on such motion is now
8 set for January 23, 2014, at 2:00 p.m.

9 2. Creditor Moore is filing his Joinder herewith and therein takes the same position
10 as set out in the Committee Motion with regard to removing Debtor as debtor in possession and
11 the appointment of a chapter 11 trustee. Creditor Moore's Joinder sets forth additional facts
12 and arguments that support the Committee Motion. Because the Committee Motion and Joinder
13 both seek the same relief (removal of debtor in possession; appointment of a chapter 11
14 trustee), Creditor Moore seeks hearing on the Joinder on the same day as the Committee
15 Motion (January 23, 2014), with opposition to the Joinder, if any, due on or before January 9,
16 2014.

17 3. Pursuant to Federal Rule of Bankruptcy Procedure 9006(c) and the Bankruptcy
18 Local Rule for the United States District Court for the Northern District of California 9006-
19 1(c), the court may shorten time for notice of a hearing upon a showing of good cause for such
20 shortened time.

21 4. As set forth in the declaration of counsel submitted herewith, the following is
22 provided in compliance with Bankruptcy Local Rules of Court, Rule 9006-1(c):

23 a. Reason for requested shortened time. The Ex Parte Motion seeks a hearing on
24 shortened time due to the recent filing of the Committee Motion which is of the same nature as
25 Creditor Moore's Joinder.

26 b. Previous time modifications relating to the subject matter of the request. A
27 request for time shortened hearing was submitted by the Creditors' Committee at the time of
28 filing the Committee Motion. The request, however, was not granted and the Committee

1 Motion was set to be heard on January 23, 2014, as a regularly noticed motion. Creditor Moore
2 does not have enough time before the Motion hearing date to submit his Joinder without an
3 order allowing the filing of such motion on a time-shortened basis.

4 c. The effect of the request for shortened time. Creditor Moore does not anticipate
5 any adverse impact on the parties in interest in this case should this request for time-shortened
6 hearing of his Joinder be granted. In mid-December, Debtor in possession received notice of
7 the Committee Motion (as to which Joinder is now sought). Debtor in possession has had
8 Creditor Moore's papers since December 27, 2013. Debtor in possession's arguments against
9 the Committee Motion are expected to be similar if not the same as his arguments against
10 Creditor Moore's Joinder.

11 Further, before the court can make a fully informed decision as to the relief sought in
12 the Committee Motion and Joinder, all facts and arguments should be before the court. It would
13 be an obvious waste of the court's and the involved parties' time to have the Creditors'
14 Committee and Creditor Moore each present motions seeking the same relief at different times.

15 d. Efforts to speak with responding parties. As set out in the accompanying
16 declaration of Kenneth H. Prochnow (attorney for Creditor Moore), neither the Creditors'
17 Committee nor the United States Trustee objects to time-shortened consideration of Creditor
18 Moore's Joinder motion. Counsel for debtor in possession are unavailable until Monday,
19 January 6, 2014, so debtor in possession's position on time-shortened consideration of Creditor
20 Moore's joinder motion is unknown at this writing. As set out herein, and in the accompanying
21 declaration, time-shortened consideration of the Joinder on January 23, 2014 (when the
22 Committee Motion comes on for hearing) will serve the interests of efficient administration of
23 this matter, and will prejudice no party to this proceeding.

24 WHEREFORE, Creditor Moore respectfully requests that the court enter an order:

- 25 1. Granting this Ex Parte Motion;
- 26 2. Scheduling a hearing on Creditor Moore's Joinder for the same date now set for the
27 Committee Motion (Thursday, January 23, 2014, at 2:00 p.m.);

- 1 3. Providing that any opposition to Joinder or the relief sought by Creditor Moore
2 therein be served and filed on or before Thursday, January 9, 2014;
3 4. Providing that Creditor Moore's Reply shall be served and filed on or before
4 Thursday, January 16, 2014; and
5 5. For such other relief as the court deems appropriate or necessary.

6 Dated: January 3, 2014

Chiles and Prochnow, LLP

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8 By: s/Kenneth H. Prochnow
Kenneth H. Prochnow
9 Attorneys for Creditor Charles H. Moore
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Attorneys For Creditor Charles H. Moore

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**DECLARATION OF KENNETH H. PROCHNOW IN SUPPORT OF EX PARTE
MOTION FOR ORDER SHORTENING TIME FOR HEARING ON CHARLES H.
MOORE'S JOINDER TO MOTION OF THE CREDITORS' COMMITTEE
DIRECTING THE APPOINTMENT OF A CHAPTER 11 TRUSTEE AND REMOVING
DEBTOR AS DEBTOR IN POSSESSION**

I, Kenneth H. Prochnow, hereby declare:

1. I am an attorney at law duly licensed to practice before the courts in this state and before this court. I am a partner in the law firm of Chiles and Prochnow, LLP, attorneys for creditor Charles H. Moore in the case of Technology Properties Limited, LLC, the chapter 11 debtor ("Debtor TPL"). I have personal knowledge of the facts set forth in this declaration, and, if called to testify, could and would testify competently thereto.

02/03/14 COUNSEL DEC. IN SUPPORT OF EX PARTE MOTION / TIME SHORTENED HEARING - 1
In re: Technology Properties Limited, LLC, Debtor. US Bankruptcy Court Case No. 13-51589 SLJ
{2655/06/00038289.DOCX}

1 2. This declaration is filed in support of the Ex Parte Motion for Order Shortening
2 Time for Hearing on Charles H. Moore's Joinder In Motion of Creditors' Committee Directing
3 the Appointment of a Chapter 11 Trustee and Removing Debtor as Debtor in Possession (the
4 "Ex Parte Motion").

5 3. Pursuant to the Ex Parte Motion, Creditor Moore is requesting that the court
6 shorten the time for notice of the hearing on Creditor Moore's joinder motion in the Creditors'
7 Committees' motion to appoint a chapter 11 trustee and remove debtor as debtor in possession
8 and that the hearing on Creditor Moore's joinder motion be scheduled for the same date as the
9 "Committee Motion" for appointment of a chapter 11 trustee and removal of debtor in
10 possession.

11 4. Previous time modifications relating to subject matter of request. No previous
12 requests have been made to shorten time with respect to Creditor Moore's joinder motion.

13 5. The effect of the request for shortened time. Creditor Moore does not anticipate
14 any adverse impact on the parties in interest in this case should this request for time shortened
15 hearing be granted. Debtor, debtor in possession and the interested parties were previously
16 notified, in mid-December, of the Committee Motion. The substance of Creditor Moore's
17 position has been before the parties since December 27, 2013, when electronic filing and
18 serving of his prior supporting motion was effected. Debtor in possession's arguments against
19 the Committee Motion can be expected to be substantially similar to those that will be
20 advanced on the merits against Creditor Moore's joinder motion.

21 6. Efforts to speak with responding parties. I have spoken with Robert Franklin,
22 Esq., an attorney for the Creditors' Committee, who has no objection to time-shortened hearing
23 on Creditor Moore's joinder motion. I have also spoken to John S. Wesolowski, Esq. of the
24 Office of the United States Trustee, who advises that the US Trustee has no objection to time-
25 shortened hearing on Creditor Moore's joinder motion. I have been unable to reach Debtor's
26 attorneys, Heinz Binder, Esq., and Robert Harris, Esq., and was informed by the Binder &
27 Malter office that both attorneys were out of town until Monday, January 6, 2014. I sent Mr.
28 Binder an email asking if debtor in possession opposed my request for time-shortened

1 consideration of Creditor Moore's joinder, and as of 9:00 a.m. on Friday, January 3, 2014, had
2 received no substantive response from Binder & Malter.

3 7. Consideration of all facts, considerations and issues relating to the appointment
4 of a chapter 11 trustee and removal of debtor in possession should occur at a single hearing
5 before this Court. I am informed and believe that under the circumstances, the January 23rd
6 hearing date previously set for consideration of the Committee Motion affords sufficient time,
7 notice and opportunity to be heard to serve as the date for hearing on Creditor Moore's joinder
8 as well.

9 I declare under penalty of perjury under the laws of the United States of America that
10 the foregoing is true and correct to the best of my information and belief.

11 Executed on January 3, 2014, at Palo Alto, California.

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13 /s/ Kenneth H. Prochnow
14 Kenneth H. Prochnow
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