

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re

ADVANTA CORP., et al.,

Debtors

Chapter 11

Case Nos. 09-13931-KJC, et seq.

**Objections due by: May 03, 2010, 4:00 p.m.**

**Hearing Date: May 11, 2010, 10:00 a.m.**

**MOTION FOR RELIEF FROM AUTOMATIC STAY UNDER SECTION 362  
OF THE BANKRUPTCY CODE WITH RESPECT TO REAL PROPERTY  
LOCATED AT 8410 NW 10<sup>TH</sup> STREET, PEMBROKE PINES, FL 33024**

Bank of America, N.A. (“Movant”), by its undersigned counsel, files this motion to terminate the automatic stay to exercise its rights against a parcel of real property located at 8410 NW 10<sup>th</sup> Street, Pembroke Pines, FL 33024 (the “Property”), and in support hereof states as follows:

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. § 1409(a). The statutory basis for the relief requested in this motion is 11 U.S.C. §§ 362 and 105.

2. On November 08, 2009 (the “Petition Date”), Advanta Corp and certain of its affiliates (the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code. Since the Petition Date, the Debtors have managed their affairs as debtors in possession pursuant to 11 U.S.C. §§ 1107 and 1108.

3. On or about March 13, 2003, Anthony Deen (“Obligor”) executed and delivered to Horizon Bank, FSB a promissory note (the “Note”) in the principal amount of ONE HUNDRED FORTY THOUSAND DOLLARS, plus interest at the rate of 6.00% per annum, attorneys’ fees, costs and late charges to be paid over thirty years.

4. To secure the repayment of the sums due under the Note, Obligor executed and delivered to Horizon Bank, FSB a mortgage, deed of trust, or comparable instrument of security on the Property dated March 13, 2003 (the “Mortgage”).<sup>1</sup>

5. The Mortgage and Note were later transferred to Movant, and Movant is the present holder of the Mortgage and Note.

6. Review of the title to the Property shows that one or more of the Debtors may hold a lien junior to the Mortgage.

7. The Obligor is now in default under the Note, and Movant seeks to exercise its non-bankruptcy rights and remedies with respect to the Note, including but not limited to enforcement of its rights against the Mortgage.

8. Because the junior mortgage described in ¶ 6 above is subordinate to the Mortgage, the Debtors have no equity in the Property.

9. Upon information and belief, the value of Movant’s claims against the Property may be equal to or may exceed the value of the Property.

10. Because the junior mortgage described in ¶ 6 above adds little or no value to the bankruptcy estate, the Property is not necessary for the Debtors’ reorganization.

11. Because the Debtors have no equity in the Property and the Property is not necessary for an effective reorganization, relief from the automatic stay is appropriate under § 362(d)(2) of the Bankruptcy Code to permit Movant to exercise its non-bankruptcy rights and remedies with respect to the Mortgage.

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<sup>1</sup> Copies of the Note and the Mortgage are available by contacting Movant’s counsel.

12. Moreover, upon information and belief, the value of the Property is decreasing, or not increasing at the same rate as the Obligor's indebtedness under the Note is increasing. Therefore, Movant's interest in the Mortgage is not adequately protected.

13. Movant does not know whether the Property, including but not limited to Movant's interest in the Mortgage, is properly insured. Therefore, Movant's interest in the Mortgage is not adequately protected.

14. Movant does not know whether the Obligor is properly maintaining the physical premises of the Property. Therefore, Movant's interest in the Mortgage is not adequately protected.

15. A continued stay of Movant's action against the Obligor and the Property will cause Movant significant prejudice.

16. Therefore, cause exists to terminate the automatic stay to permit Movant to exercise its non-bankruptcy rights and remedies with respect to the Mortgage pursuant to § 362(d)(1) of the Bankruptcy Code.

17. Movant believes that this motion will be unopposed or entered upon consensual terms. A stay of any order granting this motion would, in such instance, be inappropriate. Therefore, Movant is seeking relief from the stay provisions of Fed. R. Bankr. P. 4001(a)(3).

18. Copies of this motion and notice hereof has been served upon the Debtors, counsel for the Debtors, counsel for the Committee, counsel for the senior secured creditor, and counsel for the United States Trustee. In light of the extremely high volume of similar motions being filed in this case and the fact that the parties most likely to seek a position with respect to this motion are receiving notice, Movant believes that limiting notice to these parties is appropriate and requests that the Court consider the merits of this motion accordingly.

WHEREFORE, for the foregoing reasons, Movant respectfully requests that this Court enter an Order terminating the automatic stay and allowing Movant to exercise its non-bankruptcy rights and remedies as to the Property, including but not limited to foreclosure of the Mortgage, and granting such other and further relief as this court deems just and proper.

Dated: April<sup>23</sup>, 2010  
Wilmington, Delaware

Respectfully submitted,

ATLANTIC LAW GROUP

/s/ Michelle Berkeley-Ayres

Michelle Berkeley-Ayres (DE No. 4635)

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*Attorneys for Movant*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re

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Case Nos. 09-13931-KJC, et seq.

**Objections due by: May 03, 2010, 4:00 p.m.**

**Hearing Date: May 11, 2010, 10:00 a.m.**

**NOTICE OF MOTION OF BANK OF AMERICA, N.A.  
FOR RELIEF FROM STAY UNDER SECTION 362 OF THE BANKRUPTCY CODE**

TO: Parties listed on the Certificate of Service

Bank of America, N.A. has filed a Motion for Relief from Stay which seeks the following relief: Relief from the automatic stay to exercise its non-bankruptcy rights with respect to a parcel of real property in which the above-captioned debtor may hold an interest, located at 8410 NW 10<sup>th</sup> Street, Pembroke Pines, FL 33024.

**HEARING ON THE MOTION WILL BE HELD ON MAY 11, 2010 AT 10:00 A.M.**

You are required to file a response (and the supporting documentation required by Local Rule 4001-1(d)) to the attached motion) on or before May 03, 2010 at 4:00 p.m. Eastern Time. At the same time, you must also serve a copy of the response upon movant's attorneys:

Michelle Berkeley-Ayres, Esquire  
Tanisha L. Merced, Esquire  
Atlantic Law Group, LLC  
1500 North French Street, 2nd Floor  
Wilmington, Delaware 19801  
(302) 339-8800 telephone

The hearing date specified above may be a preliminary hearing or may be consolidated with the final hearing, as determined by the Court.

The attorneys for the parties shall confer with respect to the issues raised by the motion in advance for the purpose of determining whether a consent judgment may be entered and/or for the purpose of stipulating to relevant facts such as value of the property, and the extent and validity of any security instrument.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE,  
THE RELIEF REQUESTING IN THE MOTION MAY BE GRANTED BY THE  
COURT WITHOUT FURTHER NOTICE OR HEARING.

Dated: April <sup>23</sup>, 2010  
Wilmington, Delaware

Respectfully submitted,

ATLANTIC LAW GROUP, LLC

/s/ Michelle Berkeley-Ayres

Michelle Berkeley-Ayres (DE No. 4635)

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*Attorneys for Movant*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re

ADVANTA CORP., et al.,

Debtors

Chapter 11

Case Nos. 09-13931-KJC, et seq.

**ORDER TERMINATING AUTOMATIC STAY UNDER SECTION 362 OF THE  
BANKRUPTCY CODE WITH RESPECT TO REAL PROPERTY LOCATED  
AT 8410 NW 10<sup>TH</sup> STREET PEMBROKE PINES, FL 33024**

*(relates to Docket No. \_\_\_\_\_)*

UPON CONSIDERATION of the Motion for Relief from Automatic Stay Under Section 362 of the Bankruptcy Code with Respect to Real Property Located at 8410 NW 10<sup>th</sup> Street Pembroke Pines, FL 33024 (the “Motion”) filed by Bank of America, N.A. (“Movant”), and any response thereto; the Court having determined that (A) the Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (B) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (C) venue is proper pursuant to 28 U.S.C. § 1409(a); and (D) service to the limited parties stated on the Certificate of Service is adequate under the circumstances; and the Court having further determined that cause exists to grant Movant relief from the automatic stay with respect to Movant’s exercise of any rights and remedies against the real property located at 8410 NW 10<sup>th</sup> Street Pembroke Pines, FL 33024 (the “Property”) under applicable non-bankruptcy law; it is hereby

**ORDERED**, that the Motion be, and the same is hereby **GRANTED**. All capitalized terms not otherwise defined herein shall have the respective meanings set forth in the Motion; and it is further

**ORDERED**, that pursuant to 11 U.S.C. § 362(d), to the extent the automatic stay is otherwise applicable, Movant is hereby granted relief from the automatic stay, and the automatic

stay is terminated, with respect to Movant’s interest in the Property. Movant is hereby permitted to exercise its rights under applicable non-bankruptcy law against the Property, including but not limited to foreclosure of the Mortgage; and it is further

**ORDERED**, that nothing in this order (i) shall constitute a determination that Advanta Corp., or its affiliated debtors (the “Debtors”) hold any interest in the Property or (ii) shall estop the Debtors from denying that they hold any interest in the Property; and it is further

**ORDERED**, that this Order is immediately effective and is not stayed by operation of law, notwithstanding the stay provisions of Fed. R. Bankr. P. 4001(a)(3).

Date: \_\_\_\_\_  
Wilmington, Delaware

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 23, 2010, copies of the foregoing Motion for Relief from Automatic Stay Under § 362 of the Bankruptcy Code, notice, and proposed order were served via first-class mail, postage prepaid, upon the parties listed on the attached matrix.

Dated: April 23, 2010  
Wilmington, Delaware

  
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