

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)**

In re:	)	
	)	
TMST, INC., f/k/a THORNBURG	)	Chapter 11
MORTGAGE, INC., <i>et al.</i>	)	
	)	Case No. 09-17787 (NVA)
Debtors.	)	(Jointly Administered)
_____	)	

**TRUSTEE’S APPLICATION FOR APPROVAL OF  
CONTINGENCY FEE COMPENSATION OF SPECIAL LITIGATION COUNSEL  
SUSMAN GODFREY LLP AND SHAPIRO SHER GUINOT & SANDLER WITH  
RESPECT TO RESOLUTION OF ADVERSARY PROCEEDING**

Joel I. Sher, Chapter 11 Trustee (the “Trustee”) for TMST, Inc. f/k/a Thornburg Mortgage, Inc. (“TMST”), TMST Home Loans, Inc. f/k/a Thornburg Mortgage Home Loans, Inc. (“TMHL”), TMST Acquisition Subsidiary, Inc. f/k/a Thornburg Acquisition Subsidiary, Inc. (“TAS”), and TMST Hedging Strategies, Inc. f/k/a Thornburg Mortgage Hedging Strategies, Inc. (“TMHS”) (collectively, the “Debtors”) submits this application (the “Application”) for Approval of Contingency Fee Compensation of Special Litigation Counsel Susman Godfrey LLP (“Susman Godfrey”) and Shapiro Sher Guinot & Sandler (“SSG&S”) (together, Susman Godfrey and SSG&S are sometimes referred to as “Special Counsel”). In support of this Application, the Trustee states as follows:

**Introduction**

Simultaneously with the filing of this Application, the Trustee has filed a motion seeking authorization to enter into a settlement in the aggregate amount of \$38,000,000 (the “Defendants’ Settlement”) with (i) JPMorgan Chase Funding Inc. (as successor to Bear Stearns Investment Products Inc.) (“JPMorgan”), (ii) Citigroup Global Markets Limited (“CGML”), and Citigroup Global Markets, Inc. (“CGMI”, and collectively with CGML, “Citi”), (iii) Credit Suisse Securities

(USA) LLC (“CSSU”), and Credit Suisse International (“CSI”, and collectively with CSSU, “Credit Suisse”), and (iv) UBS AG (as successor in interest to UBS Securities LLC) (“UBS”) (collectively, the “Settling Defendants” or “Defendants”). The Defendants are the remaining four of the five (5) groups of named defendants in the matter of *Joel I. Sher, in his capacity as Chapter 11 Trustee for TMST, et al. v. JPMorgan Chase Funding Inc., et al.*, Adv. P. 11-00340 (the “Adversary Proceeding”) and Defendants’ Settlement resolves this Adversary Proceeding.<sup>1</sup>

By this Application, the Trustee seeks authorization to pay a previously approved contingent fee to Susman Godfrey of \$6,650,000.00 (representing its 17.5% contingency fee) and to SSG&S of \$3,800,000.00 (representing its 10% contingency fee) pursuant to the hereinafter described Employment Order. The percentages for these contingency fees were previously approved pursuant to Section 328(a) of the Bankruptcy Code by the Court’s Order Approving (In Part) Trustee’s Application [Dkt. No. 2120] For Authority to Employ Special Litigation Counsel and to Make Limited Modification to the Terms of the Existing Retention Order for Counsel to the Trustee, found at Dkt. No. 2191 (the “Employment Order”).

As anticipated when the Trustee appeared before this Court seeking to retain the Special Counsel, the Adversary Proceeding has been hard fought and has required the experience, dedication and skill the Trustee expected of the Applicants when he sought their retention. Indeed, the proposed settlement with the Defendants comes after a decade of highly complex, adversarial litigation in the Adversary Proceeding which has involved exhaustive discovery, including

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<sup>1</sup> The Trustee previously entered into and obtained approval from this Court of a settlement of this Adversary Proceeding with NatWest Markets Securities Inc. (f/k/a RBS Securities Inc. f/k/a Greenwich Capital Markets, Inc.), Greenwich Capital Derivatives Inc., and NatWest Markets Plc (f/k/a The Royal Bank of Scotland plc) (collectively, the “RBS Defendants”). In furtherance of that settlement, the RBS Defendants were dismissed from this action pursuant to a Stipulation and Consent Order [Adv. Proc. No. 11-0340; Dkt. No. 530].

extensive document productions, depositions of representatives of the Settling Defendants and key witnesses to the case, and repeated motions practice before this Court. The Trustee respectfully submits that his ability to obtain the remaining Defendants' Settlement was made possible by Special Counsel's efforts, and it evidences the appropriateness of their retention pursuant to Section 328(a) of the Bankruptcy Code. Furthermore, upon approval of the Defendants' Settlement, the Trustee will file a stipulation of dismissal of the Adversary Proceeding with prejudice and intends to then move forward and propose a liquidating plan in order to make a distribution to creditors and wind up the bankruptcy cases and Debtors' estates. The Trustee requests, therefore, that the Application be approved.

**Jurisdiction and Venue**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. §§ 157. Venue in the District of Maryland is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The basis for the relief requested herein is 11 U.S.C. § 328(a).

**Employment of Susman Godfrey and SSGS as Special Litigation Counsel**

3. On May 1, 2009 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The cases are jointly administered pursuant to the Court's Orders of May 6 and November 2, 2009 [Dkt. Nos. 54 and 516, respectively].

4. On October 23, 2009, the Court entered an Order Requiring Appointment of Chapter 11 Trustee [Dkt. No. 490].

5. On October 28, 2009, on application of the U.S. Trustee, the Court entered an Order Approving Appointment of Joel I. Sher as Chapter 11 Trustee for the Debtors [Dkt. No. 506].

6. On April 30, 2011, the Trustee filed a Complaint (as amended on June 8, 2011 and October 20, 2017) against the Settling Defendants and RBS Defendants in the Adversary Proceeding. In the Complaint, the Trustee set forth claims for, *inter alia*, avoidance of certain transfers made to the Settling Defendants and RBS Defendants under 11 U.S.C. § 548(a)(1)(A), breach of contract, equitable subordination, and other relief.

7. On September 24, 2014, the Bankruptcy Court granted in part and denied in part the Settling Defendants' and RBS Defendants' motion to dismiss [Adv. Pro. Dkt. No. 76], determining that the Trustee's claims for avoidance under 11 U.S.C. § 548(a)(1)(A) (Counts 3, 10, 16, and 20), breach of contract (Counts 7 and 27), coercion and duress (Count 28), equitable subordination (Count 29), and disallowance of claims (Count 31) should proceed to discovery.

8. On December 2, 2014, the Trustee submitted an *in camera* Application for Entry of an Order Authorizing the Employment and Retention of Special Litigation Counsel to the Trustee and Limited Modification of Retention Order of Counsel to the Trustee [Dkt. 2104] (the "Employment Application"). By the Employment Application, the Trustee sought to engage Susman Godfrey and SSG&S to represent him in the Adversary Proceeding based upon a hybrid fee structure that included a contingency fee for results accomplished.

9. The Trustee noted that he "has chosen Susman Godfrey to serve as co-counsel because of the law firm's existing familiarity with the Debtors, the issues that will be presented in the Counterparty Litigation and because Susman Godfrey is one of the nation's leading litigation boutiques specializing in high stakes commercial litigation. The *American Lawyer* has named Susman Godfrey as one of the top two litigation boutiques in the United States." See Employment Application at para. 20. Further, the Trustee noted that he "wishes to continue the role of SSG&S in the Counterparty Litigation because the Trustee and other professionals at SSG&S have a unique

familiarity with the business affairs of the Debtors, have established the necessary relationships with witnesses and other parties and have the necessary skill set needed to prosecute this litigation in collaboration with co-counsel.” *See* Employment Application at para. 21.

10. The Trustee sought authorization to engage Special Counsel under Sections 327 and 328(a) of the Bankruptcy Code. With respect to compensation that is specifically applicable to this Application, the Trustee sought approval of the contingent fee component as follows: (a) for Susman Godfrey – 17.5% of the gross sum recovered by a settlement or other resolution; (b) for SSG&S – 10% of the gross sum recovered by a settlement or other resolution; and (c) reimbursement of reasonable out-of-pocket expenses and disbursements incurred in connection with the Adversary Proceeding.<sup>2</sup> As set forth in the Employment Application, gross sum recovered “means all money and other things of value, including the value of any business accommodation recovered...” In the context of this Application, the gross sum recovered is \$38,000,000.00 comprised of a cash payment of \$35,643,580.19 and the contribution by Credit Suisse of \$2,356,419.81 held in reserve by the Debtors as to which Credit Suisse asserts ownership.

11. The Trustee submitted that the above-described fee arrangement is reasonable. On January 21, 2015, the Court conducted an evidentiary hearing on the Employment Application. During the evidentiary hearing the Trustee presented evidence concerning the terms of the respective fee arrangements, as well as expected fees for a range of potential recoveries in the case. Only the Official Committee of Unsecured Creditors objected. The Court sealed, at the Trustee’s

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<sup>2</sup> Susman Godfrey may also be entitled to an additional contingent fee based upon an incremental distribution to creditors resulting from a reduction in the amount of the Defendants’ Proofs Of Claim. Susman Godfrey’s entitlement to such a fee is not presently determinable, and therefore Susman Godfrey reserves the right to seek such a fee upon further application to the Court.

request, that portion of the hearing respecting the terms of the fee agreements.<sup>3</sup> At the conclusion of the hearing, the Court overruled the Committee's objection and entered the Employment Order [Dkt. No. 2191]. As noted above, the Court authorized the retention of Special Counsel under Sections 327 and 328(a) of the Bankruptcy Code pursuant to the terms and subject to the compensation set forth in the Employment Application.

**The Adversary Proceeding, Defendants' Claims, the RBS Settlement,  
and the Settlement with Defendants**

12. After the Petition Date, the Settling Defendants filed Proofs of Claim in the Debtors' bankruptcy case (as amended) in the approximate aggregate amount of \$1.75 Billion as follows: (i) JPMorgan against Thornburg Mortgage, Inc. (Epiq Claim No. 729) for \$386,089,684.00 as of the Petition Date; (ii) CGML against Thornburg Mortgage, Inc. (Epiq Claim No. 803) for \$395,379,870.29 as of the Petition Date; (iii) CSI against Thornburg Mortgage Hedging Strategies, Inc. (Epiq Claim No. 886), Thornburg Mortgage Home Loans, Inc. (Epiq Claim No. 888), and Thornburg Mortgage, Inc. (Epiq Claim No. 892) for \$773,837,870.00 as of the Petition Date; (iv) CSSU against Thornburg Mortgage Hedging Strategies, Inc. (Epiq Claim No. 887), Thornburg Mortgage Home Loans, Inc. (Epiq Claim No. 898), and Thornburg Mortgage, Inc. (Epiq Claim No. 893) for \$117,472,485.47 as of the Petition Date; and (v) UBS against Thornburg Mortgage, Inc. (Epiq Claim Nos. 891 and 747) for \$86,652,501.00 and \$109,659.23 as of the Petition Date (collectively, the "Proofs of Claim").<sup>4</sup>

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<sup>3</sup> For the reasons stated in the RBS Fee Application (defined *infra*), the Trustee did not seek to seal that application. For the same reasons, the Trustee does not seek to seal this Application.

<sup>4</sup> The RBS Defendants also filed proofs of claims in the approximate amount of \$829.1 Million. As discussed herein, the Court previously approved a settlement between the Trustee and the RBS Defendants.

13. The Proofs of Claim arise out of and relate to certain agreements between certain of the Defendants and certain of the Debtors. The Proofs of Claim total approximately \$1.75 Billion (excluding duplication for guarantees of underlying claims).

14. On November 19, 2014, the Settling Defendants filed their Answers to the First Amended Complaint [Adv. Pro. Dkt. Nos. 104, 97, 100, and 95], generally denying any liability for any claims asserted in the Complaint as well as asserting certain affirmative defenses. On December 10, 2014, Credit Suisse and UBS filed Amended Answers to the First Amended Complaint [Adv. Pro. Dkt. Nos. 112 and 111].

15. Thereafter, the Trustee, the Defendants, and the RBS Defendants conducted extensive fact discovery over a number of years, including requesting and responding to interrogatories, making extensive document productions in response to document requests, and/or obtaining third party discovery from numerous third parties. In conjunction therewith, the Trustee and the Defendants (and the RBS Defendants) engaged in repeated, complex, and contentious motions practice concerning a variety of discovery disputes before the Bankruptcy Court.

16. On October 20, 2017, the Trustee filed the Second Amended Complaint [Adv. Pro. Dkt. No. 421]. The Complaint, First Amended Complaint, and Second Amended Complaint are referred to hereinafter as the “Complaint.” On November 20, 2017, the Defendants and RBS Defendants filed a Joint Motion to Dismiss Counts 3, 10, 16, and 20 of the Second Amended Complaint to the Extent Based on the Debtors’ Own Intent (the “Second Motion to Dismiss”) [Adv. Pro. Dkt. No. 423]. On December 20, 2017, the Trustee Opposed the Defendants’ and RBS Defendants’ Second Motion to Dismiss [Adv. Pro. Dkt. No. 427]. On December 17, 2019, the Bankruptcy Court issued a Memorandum Opinion and Order Denying Defendants’ Second Motion to Dismiss (the “Second Dismissal Decision”) [Adv. Pro. Dkt. Nos. 564 and 564].

17. Prior to the Bankruptcy Court's issuance of the Second Dismissal Decision, the Trustee reached a resolution of his claims against the RBS Defendants. On September 28, 2018, the Trustee filed a Motion For Approval of Settlement and Compromise of Controversary Between the Trustee and the RBS Defendants (the "RBS Settlement Motion") [Ad. Proc. No. 11-0340; Dkt. No. 516] and this Court approved the RBS Settlement Motion [*See* Order, Dkt. No. 525; October 26, 2018]. Simultaneously when filing the RBS Settlement Motion, the Trustee filed an Application of Contingency Fee Compensation of Special Litigation Counsel Susman Godfrey LLP and Shapiro Sher Guinot and Sandler (the "RBS Fee Application") [Dkt. No. 2746] to approve the contingent fee component with respect to the RBS Defendants settlement. This Court approved the RBS Fee Application [*See* Order, Dkt. No. 2765; November 5, 2018].

18. After the RBS Settlement, the Trustee and Defendants continued to engage in discovery, including fact and corporate designee depositions involving sophisticated issues related to the repo, swap and other transactions between the Debtors and the Defendants. In conjunction therewith, the Trustee and Defendants engaged in further motions practice and hearings concerning various discovery and other issues before the Bankruptcy Court.

19. In an effort to resolve the claims asserted against the Defendants in the Adversary Proceeding, the Trustee and the Settling Defendants engaged in a lengthy process of arms-length, good faith negotiations. As a result of those negotiations, the parties reached an agreed settlement of these matters that significantly benefits the Debtors' estates.

20. With respect to the Adversary Proceeding, and specifically the Defendants' Settlement, Susman Godfrey and SSG&S worked collaboratively to handle all aspects of the litigation with the shared goal of obtaining the best results for the estates against all Defendants. The issues presented were sophisticated and nuanced and required Susman Godfrey and SSG&S



to immerse themselves in and develop expertise in repo, swap and other financial transactions at issue in the case. The Susman Godfrey team was led by Mark L.D. Wawro, Esquire and the SSG&S team was led by Joel I. Sher, Esquire. Both teams were comprised of highly sophisticated partners, associates, and paraprofessionals each of whom offered different levels of expertise in different areas. Both teams, operating in tandem, were responsible for forging the path that ultimately led to the Defendants' Settlement. The law firms have worked tirelessly with each other (without duplicating effort).

21. The path to the Defendants' Settlement has been *via* a hard-fought battle with all the Defendants, with Special Counsel aggressively and vigorously prosecuting the Trustee's positions with precision and excellence. The Trustee unequivocally asserts that the Defendants' Settlement is a direct result of Susman Godfrey's and SSG&S's combined litigation efforts and successes, trial strategy and exceptional expertise. Accordingly, the Trustee submits that the contingency fee payments sought herein are reasonable under § 328(a).

#### **Applicable Legal Standard**

22. Section 328(a) of the Bankruptcy Code permits the Court to pre-approve (*i.e.*, approve prior to the rendering of services) a contingency fee arrangement as reasonable. *In re Merry-Go-Round Enters., Inc.*, 244 B.R. 327, 344 (Bankr. D. Md. 2000) (explaining the preapproval procedure "is both a protection for creditors and potential class beneficiaries of the bankruptcy estate and an inducement for qualified professionals to represent the bankruptcy estate by protecting the benefits of their fee agreements").

23. Once a contingency fee arrangement is properly preapproved under § 328(a) "the fee produced thereby is no longer subject to a lodestar analysis or an after the fact, *de novo*, determination of reasonableness." *Merry-Go-Round*, 244 B.R. at 344; *see also Daniels v. Barron*

(*In re Barron*), 325 F.3d 690, 692-93 (5th Cir. 2003). Rather, under § 328(a), a bankruptcy court may only alter a pre-approved contingency fee if the “terms and conditions [of the contingency fee arrangement] prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.” *Merry-Go-Round*, 244 B.R. at 344 (finding the trustee could honor special litigation counsel’s 40% contingency fee agreement pre-approved under § 328(a) that resulted in contingency fee of \$71.2 Million after eve of trial settlement agreement where there had been “no developments not capable of being anticipated when the agreement was approved that make the agreement improvident”).

**The Court Should Approve the Payment of the Contingency Fees  
To Susman Godfrey and SSG&S Under the Employment Order**

24. In the Employment Order, the Court previously approved under Sections 327 and 328(a) of the Bankruptcy Code the fee agreements, including the contingency fee arrangements set out above.

25. There have been no developments in the Adversary Proceeding since the entry of the Employment Order that were incapable of being anticipated when the fee agreement, including the contingency arrangements, was approved and/or would render the contingency fee arrangement between the Trustee and Susman Godfrey and SSG&S improvident. “A settlement prior to trial is capable of being anticipated.” *Merry-Go-Round*, 244 B.R. at 337. Indeed, a pretrial settlement and a recovery in the aggregate amount of \$38,000,000.00 from the Settling Defendants was capable of being anticipated. *See id.* (Concluding pretrial settlement of \$185 Million though highly unlikely when the contingency fee was approved was not incapable of being anticipated and explaining, “[i]t would be ironic to deprive counsel of the benefits of its contingency fee agreement because counsel was successful in obtaining a highly successful result against great odds”). Most importantly, the contingency amount sought to be paid to the Applicants under their

respective retention agreements – the 17.5% contingency fee amount for Susman Godfrey and the 10% contingency fee amount for SSG&S - was contemplated and thus foreseeable because, among other things, the amounts now sought were expressly set as the respective fees to be paid to Susman Godfrey and SSG&S for their legal services in the event of a recovery.

26. Without the skill, time, and reputation expended by Susman Godfrey and SSG&S in the Adversary Proceeding, the Defendants' Settlement would have been unachievable. The contingency fees to be paid to Susman Godfrey and SSG&S as a percentage of the Defendants' Settlement amount is extraordinarily reasonable. Accordingly, the Trustee advocates for approval of this Application.

### **Conclusion**

27. For the foregoing reasons, the Trustee asserts that the Application should be approved.

**WHEREFORE**, for the foregoing reasons, Joel I. Sher, Trustee, respectfully requests the Court enter an order in the form attached hereto:

A) Approving the Trustee's payment of \$6,650,000.00 to Susman Godfrey upon the Trustee's receipt of and from the \$38,000,000.00 in aggregate proceeds to be paid to the Debtors pursuant to the Defendants' Settlement;

B) Approving the Trustee's payment of \$3,800,000.00 to Shapiro Sher Guinot & Sandler upon the Trustee's receipt of and from the \$38,000,000.00 in aggregate proceeds to be paid to the Debtors pursuant to the Defendants' Settlement; and

C) Granting such other and further relief as is just and equitable.

Dated: April 4, 2022

/s/ Joel I. Sher

Joel I. Sher, Bar No. 00719  
Richard M. Goldberg, Bar No. 07994  
SHAPIRO SHER GUINOT & SANDLER  
250 W. Pratt Street, Suite 2000  
Baltimore, MD 21201  
Phone (410) 385-0202

*Counsel for Joel I. Sher, Chapter 11 Trustee for  
TMST, Inc., et. al.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on 4th day of April, 2022, a copy of the foregoing was electronically filed and served on the parties listed below by first-class mail, unless such party is a registered CM/ECF participant and the Notice of Electronic Filing indicates that notice was electronically mailed to such party from the Court.

James C. Tecce, Esquire  
QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP  
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-and-

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Todd M. Brooks, Esquire  
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*Counsel for Joel I. Sher, Chapter 11 Trustee*

/s/ Joel I. Sher  
Joel I. Sher

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)**

In re:	)	
	)	
TMST, INC., f/k/a THORNBURG	)	Chapter 11
MORTGAGE, INC., <i>et al.</i>	)	
	)	Case No. 09-17787 (NVA)
Debtors.	)	(Jointly Administered)
	)	

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**NOTICE OF THE TRUSTEE’S APPLICATION FOR APPROVAL OF  
CONTINGENCY FEE COMPENSATION OF SPECIAL LITIGATION COUNSEL  
SUSMAN GODFREY LLP AND SHAPIRO SHER GUINOT & SANDLER WITH  
RESPECT TO RESOLUTION OF ADVERSARY PROCEEDING**

**TO ALL PARTIES IN INTEREST:**

PLEASE TAKE NOTICE that on April 4, 2022, Joel I. Sher, Chapter 11 Trustee (the “Trustee”) for TMST, Inc. f/k/a Thornburg Mortgage, Inc. (“TMST”), TMST Home Loans, Inc. f/k/a Thornburg Mortgage Home Loans, Inc. (“TMHL”), TMST Acquisition Subsidiary, Inc. f/k/a Thornburg Acquisition Subsidiary, Inc. (“TAS”), and TMST Hedging Strategies, Inc. f/k/a Thornburg Mortgage Hedging Strategies, Inc. (“TMHS”) (collectively, the “Debtors”) filed an Application (the “Application”)<sup>1</sup> for Approval of Contingency Fee Compensation of Special Litigation Counsel Susman Godfrey LLP (“Susman Godfrey”) and Shapiro Sher Guinot & Sandler (“SSG&S”) With Respect to Resolution of Adversary Proceeding. The Application may be inspected at the Clerk’s Office, United States Bankruptcy Court, 101 West Lombard Street, 8th Floor, Baltimore, Maryland 21201.

**COMPENSATION SOUGHT:** The Trustee seeks approval to compensate Susman Godfrey and SSG&S from the proceeds of a Thirty-Eight Million Dollar (\$38,000,000.00) settlement reached with the Settling Defendants (the “Defendants’ Settlement”) in the adversary proceeding *Joel I. Sher, in his capacity as Chapter 11 Trustee for TMST, et al. v. JPMorgan Chase Funding Inc., et al.*, Adv. Proc. Case No. 11-00340. Specifically, the Trustee seeks approval to compensate: (i) Susman Godfrey \$6,650,000.00, the contingency fee amount the Trustee agreed to pay Susman Godfrey, as applicable to the Defendants’ Settlement, and (ii) SSG&S \$3,800,000.00, the contingency amount the Trustee agreed to pay SSG&S, as applicable to the Defendants’ Settlement. The contingency percentage amounts sought were approved pursuant to the terms of the Court’s Order Approving (In Part) Trustee’s Application [Dkt. No. 2120] For Authority to Employ Special Litigation Counsel and to Make Limited Modification to the Terms of the Existing Retention Order for Counsel to the Trustee [Dkt. No. 2191] (the “Employment

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<sup>1</sup> Capitalized terms not defined herein shall have the meaning ascribed in the Application, as applicable.

Order”). Susman Godfrey and SSG&S have already been reimbursed by the Trustee for all of their out-of-pocket expenses in accordance with the Employment Order.

NOTICE IS FURTHER GIVEN that objections to this Application, if any, must be filed within twenty-one (21) days of the date of this Notice with the Clerk, United States Bankruptcy Court for the District of Maryland, 101 West Lombard Street, 8<sup>th</sup> Floor, Baltimore, Maryland 21201. A copy of any objection must be served on the undersigned. If no objections are filed, the Court may, in its discretion, enter an order approving the Application without a hearing.

Parties-in-interest desiring further information should contact the undersigned.

Dated: April 4, 2022

/s/ Joel I. Sher

Joel I. Sher, Bar No. 00719

Richard M. Goldberg, Bar No. 07994

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*Counsel for Joel I. Sher, Chapter 11 Trustee*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)**

In re:	)	
	)	
TMST, INC., f/k/a THORNBURG	)	Chapter 11
MORTGAGE, INC., <i>et al.</i>	)	
	)	Case No. 09-17787 (NVA)
Debtors.	)	(Jointly Administered)

**ORDER APPROVING TRUSTEE’S APPLICATION FOR APPROVAL OF  
CONTINGENCY FEE COMPENSATION OF SPECIAL LITIGATION COUNSEL  
SUSMAN GODFREY LLP AND SHAPIRO SHER GUINOT & SANDLER WITH  
RESPECT TO RESOLUTION OF ADVERSARY PROCEEDING**

Upon consideration of the Trustee’s Application (the “Application”) <sup>1</sup> for Approval of Contingency Fee Compensation of Special Litigation Counsel Susman Godfrey LLP (“Susman Godfrey”) and Shapiro Sher Guinot & Sandler (“SSG&S”) With Respect to Resolution of Adversary Proceeding, any objections thereto and any hearing held thereon, the Court finding that no basis exists under 11 U.S.C. § 328(a) to disturb or alter the terms of the Employment Order with respect to the Defendants’ Settlement achieved in the Adversary Proceeding *Joel I. Sher, in his capacity as Chapter 11 Trustee for TMST, et al. v. JPMorgan Chase Funding Inc., et al.*, Adv. Proc. Case 11-00340, proper notice of the Application having been provided to all parties-in-

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<sup>1</sup> All capitalized terms not herein defined shall have the meaning ascribed in the Application.



interest, good cause having been shown, and any objections thereto having been overruled, it is, by the United States Bankruptcy Court for the District of Maryland,

ORDERED, that the Application is approved; and it is further

ORDERED, that the Trustee is hereby authorized to make a payment of Six Million, Six Hundred Fifty Thousand Dollars (\$6,650,000.00) to Susman Godfrey upon the Trustee's receipt of and from the \$38,000,000.00 in aggregate proceeds to be paid to the Debtors pursuant to the Defendants' Settlement; and it is further

ORDERED, that the Trustee is hereby authorized to make a payment of Three Million, Eight Hundred Thousand Dollars (\$3,800,000.00) to SSG&S upon the Trustee's receipt of and from the \$38,000,000.00 in aggregate proceeds to be paid to the Debtors pursuant to the Defendants' Settlement

cc: Joel I. Sher, Esquire  
Richard M. Goldberg, Esquire  
Daniel J. Zeller, Esquire  
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—and—

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**END OF ORDER**