

REAL ESTATE WEEKLY

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Busier than ever, Steph Meister is at the forefront of commercial distress

By DANIEL GEIGER

Meister's practice is handling some of the biggest real estate meltdowns yet, but it's the residential market that has him really concerned.



January 4, 2010 - Problems in the Manhattan commercial real estate market have kept Stephen Meister's law practice busy with some of the messiest deals to yet unravel during the downturn.

Increasingly, a common thread is at the heart of many disputes.

The recession and a sharp constriction in the availability of credit have brought down property prices and have left a long list of office buildings in the city, not to mention the rest of the country, with outsized levels of debt.

The situation is so widespread, it has become according to many experts a systemic fault line in the market. As mortgages come due for refinance, there simply isn't enough available cash to replace them.

Although the current times might be nightmarish for owners and lenders, they would appear to hold promise for those who, like Meister, are in the legal profession.

Landlords have had to slug it out in court to try to prevent properties from falling into the hands of creditors. And for the many highly leveraged buildings in the city carrying multiple debts, lenders have had to wrangle with one another to protect their loans from being washed away with the falling values.

The litigation hasn't reached a fever pitch yet because the most vulnerable deals stem from a period in the real estate market between 2005 and 2007 when property prices were their most overblown. The mortgages for these won't expire in mass for a few more years.

Still there have been a number of cases that have seemed to offer a taste of what's to come and Meister has been involved in more than a few of them.

He represented the real estate investment firm Africa Israel in a lawsuit involving 229 West 43rd Street, the former home of The New York Times. Africa Israel borrowed over \$700 million to purchase the building at the peak of the real estate bubble and then gut-renovate it into a modern office property.

The project's over 700,000 square feet of office space is vacant and it is widely regarded as one of the most disastrous deals to have been done during the boom. Africa Israel, a public company in Israel, was forced to announce significant write-downs on the project in recent months, disclosures that triggered a technical default with the senior lender in the deal, the Mexican bank Banco Imbursa.

Meister came in when a mezzanine lender, the investment firm Five Mile Capital, sued on allegations that Africa Israel had arranged the default to wipe out junior debt holders.

In recent weeks, Five Mile reached a settlement in which it will take a significant ownership interest in the property and remaining lenders will restructure the building's debts.

But before this happened, Meister won Africa Israel a small, final victory. In November, the state Supreme Court where the case was being heard, refused to issue an injunction that Five Mile had sought to prevent the property's foreclosure, what was essentially a rebuke of its allegations that there had been an improper alliance between owner and lender.

"It was ridiculous, Africa Israel is a public company and they're forced to make the write downs on the property's value," Meister said.

The case bears a strong similarity to another lawsuit Meister is involved in, this time representing, not defending against, a mezzanine lender who claims to be the victim of a conspiracy. The case centers on an even more spectacular real estate meltdown.

In 2007, David Lichtenstein, a real estate investor who owns one of the largest property holding companies in the country, the Lightstone Group, purchased Extended Stay Hotels, for nearly \$8 billion.

Like many daring, highly leveraged transactions done during the frothy economic times before the recession, the deal hasn't gone well. Lichtenstein plunged into bankruptcy and arranged to turn the nearly 76,000-unit portfolio over to senior lenders, a group that includes Cerberus Capital Management and Centerbridge Partners.

Representing Line Trust, the junior lender that launched the suit, Meister accuses Cerberus and Centerbridge of "tortious, conspiratorial, collusive, bad faith and predatory conduct" and "a Machiavellian scheme."

Meister claims that Cerberus and Centerbridge persuaded Lichtenstein to enter into bankruptcy and stage a default by not paying a nominal \$3.5 million operating expense. The portfolio would then be wholly restructured and junior debtors like Line Trust severed from the deal.

Among the more devious components of the defendants' arrangement according to court documents was a provision to protect Lichtenstein against \$100 million in personal liabilities that would likely be triggered by his bankruptcy filing and up to \$5 million to pay for his legal expenses to fight the inevitable lawsuits that would arise.

The case has for some months been winding its way through the court, but it appears to have more teeth to it than the suit launched against Africa Israel.

Meister, not without some hint of jest, suggests that the two bear similarity to one another for reasons beyond the common circumstances they appear to stem from and that are buffeting many risky real estate acquisitions.

"Kasowitz cribbed my argument," Meister said, referring to the law firm Kasowitz, Benson, Torres & Friedman LLP.

The firm represented Five Mile in its case against Africa Israel and is defending David Lichtenstein in the Extended Stay suit. Meister's suggestion is that Kasowitz took his approach in defending Line Trust and applied it in its suit against Africa Israel, which was launched after the Extended Stay case began.

"They didn't have the creative juices to come up with it themselves," Meister said, while grinning as if he is playfully jousting an adversary in the courtroom rather than really suggesting some kind of professional infringement.

As Meister admits a short moment later, there really is no such thing as plagiarism in a legal argument.

"Complaints aren't like novels," he said.

But it is an example of his brand of barbed humor coupled with what sometimes seems like a fierce underlying competitiveness for professional rivals.

"Meister is the kind of lawyer who isn't bound by the hidden rules that normally restrict attorneys," a lawyer at a major real estate practice in the city said, explaining that many large firms are careful to choose who they represent in order not to end up squaring off against bread and butter clients, particularly large financial services companies that are huge pipelines of business for the city's legal industry.

In the Extended Stay lawsuit, Bank of America and Wachovia are both defendants.

Meister is also suing another banking heavyweight, Goldman Sachs, on behalf of the landlord Joseph Moinian. The case is seeking millions of dollars Moinian feels he is owed as a result of a large leasehold that Goldman Sachs sold to AIG last year at one of Moinian's buildings, 180 Maiden Lane.

"In our industry we have great transactional lawyers and we have good litigation lawyers, we seldom see both talents in the same person, Steve has both," Moinian said in an email. Meister was "maybe a little too tough, but that's his strength," Moinian continued.

Meister will have to be tough; 180 Maiden Lane isn't the only building in Moinian's portfolio where there will be litigation.

At 95 Wall Street, a building in Lower Manhattan that Moinian converted from commercial office into residential rental apartments, Meister is preparing to block an expected foreclosure attempt.

A pair of investors, FBE Limited and Lane Capital, bought a pledge in a mezzanine loan tied to the property and have announced their intent in court to take over once they consolidate their interest in the debt.

Moinian appears to be in a tenuous position, but there may be more than a possible legal fistfight energizing Meister. He mentions that Herrick Feinstein, a law firm that he used to work for, is representing FBE and Lane Capital.

Meister started his own firm, Meister Seelig & Fein LLP, in the mid 1990s. Even though it would mean giving up the perks of operating within a prestigious, well-established firm, the move was more suited to his disposition. Meister isn't a rank and file kind of guy.

He remembers a time when he was stuck in heavy traffic on the way to the Hamptons. Passing McArthur Airport, he realized that if he could fly, he might never have to deal with gridlock again. He pulled over and enrolled in flying lessons. Now he has a pilot's license and owns his own single engine prop plane, which he uses to fly to his weekend and summer home in Nantucket.

Meister Seelig & Fein has grown to over 40 attorneys and seems as if it could further expand given the way it has been winning what appears to be an outsized share of the litigation that has so far come as a result of brewing distress in the real estate market.

"I have been hearing his name a lot lately, maybe his rates are cheaper?" A lawyer at another prominent real estate practice guessed.

For someone so embroiled in the troubles hammering the commercial real estate market, Meister is strangely calm about the potential for worsening distress and the wide reaching impact it could have on both the industry and the greater economy.

Although his practice is largely focused on commercial real estate litigation and transactional work, residential real estate is what stirs his concern and outrage, largely because of the way years of government programs have interlinked the fates of that market with that of the country's taxpayers.

In recent months, Meister has become something of a regular pundit on the Fox Business Network, where one of the station's hosts, Stuart Varney, refers to him as both his favorite lawyer and "the best one in the whole of New York City."

"It's very bad Stuart," Meister said of the residential market in an interview with Varney in mid November during a segment called "Red Ink Watch," one of the station's many forums where critiques are heaped on government spending.

"It's getting worse because there has been a massive intervention by our government in the biggest market in our country. We own, between Fannie and Freddie, \$5.5 trillion worth of mortgages, 31 million different mortgages. When you add in our responsibility through Ginnie and the FHA insurance, well over \$6 trillion worth of mortgages."

Meister speaks of these liabilities with the urgency of someone sounding an alert against a catastrophe that hasn't yet been fully recognized.

For him, the logic is simple. The federal government could be on the hook for an unprecedented liability if mortgages continue to go bad. And, given the way unemployment continues to rise, Meister thinks it will. Even homeowners who can pay have been increasingly tempted to walk away as values have dropped amid the glut of foreclosures.

"We'll have the Weimar Republic," Meister told me, alluding to the prospect of high inflation if the government continues to finance social programs and ever growing deficits while postponing spending cuts. "People will be pushing wheelbarrows in the streets to buy a loaf of bread."

Meister's dire evaluations make for good talk show television and his perspective fits right in on Fox.

"We should cut the size of government by 75 percent," Meister told me, explaining that the "power of capitalism" can only be unleashed in an environment in which businesses aren't hindered by rising taxes. "We have to create jobs."

Meister is unabashed of his conservative views despite the fact that they run counter to the real estate industry's more liberal minded reputation in the city. At the bottom of his emails, running alongside his contact information is an embedded quote from Thomas Jefferson: "A government big enough to give you everything you want, is strong enough to take everything you have."

"It's a tidal wave versus a tsunami," Meister said, comparing the commercial and

residential markets, indicating that the problems facing both are serious, but that residential is larger. Though this may prove to be true, it would also confirm his ideology.

For Meister, commercial real estate is firmly in the realm of private business, ventures best left to fix themselves or be sorted out in the court room. Government efforts to encourage homeownership or prevent foreclosure amount in his eyes to unwise meddling that has only managed to imperil the country's fiscal health.

Perhaps the prospect that socialist minded policies and tighter government regulation over business may be gaining long lasting mainstream acceptance amid the tough economic times has prompted Meister to position himself as visibly as he has at the vanguard of a conservative pushback.

“The U.S. government is just one giant messed up debt stack,” Meister said.

Perhaps sensing that he was being too theatrical, Meister reflected for a moment.

“Look I don't coordinate my political views to match my clients,” he said. “The silver lining for me I think that the liberal ideology has caused so much damage that it will cause a swing to conservatism.”