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Company of the Month

A LEADING FACILITATOR OF COMMERCIAL MORTGAGE LOAN DEFEASANCES SINCE 2000

Commercial Defeasance, LLC is the industry leader committed to customer service

NEW YORK, NY Commercial Defeasance was formed in 2000 in response to a New York borrower's frustration over a phone call to a loan servicer who told him that, despite what his loan documents said about defeasance, there was no process for defeasing CMBS loans, and the loan was never meant to actually be defeased. The borrower had received a very attractive offer on his property just as his loan was coming out of the two year REMIC lock-out period, so he was quite upset to hear that he was stuck in a loan with a ten year term that effectively prevented him from refinancing or selling. Not being one to give up so easily, he located his closing binder and found the name of the lender's representative who had placed him in the loan, Rob Finlay, and requested his assistance.

the *concept* of defeasance became firmly entrenched in CMBS loan documentation a few years before the *reality* of borrowers actually seeking to defease required that there be a process in place to handle defeasance requests. Consequently, when Rob Finlay received the phone call from this distressed borrower, there had only been a small number of highly structured, very expensive defeasances of loans securitized by Nomura, the only lender consistently including defeasance provisions in their CMBS loan documents from 1994 through 1996.

Therefore, it was with no small amount of trepidation that Finlay, with a wife and children to support, left a steady, paying job to start Commercial Defeasance, LLC, the first CMBS defeasance facilitator. The company's mission was captured concisely in its slogan: "Defeasance With Ease." During the second half of 2000, Commercial Defeasance helped that first borrower and five more defease their loans. The original process was anything but easy, but as the company worked with each loan servicer, servicer's counsel and rating agency on these first CMBS defeasances, it applied its growing experience to make each defeasance smoother and more efficient than the prior defeasance. In those early days, Commercial Defeasance helped shape and refine the defeasance process that is still followed by the CMBS

market today and helped transform a highly structured and technical process with third party costs as high as \$250,000 into a standardized process with average third party fees of approximately \$65,000. True to its original mission, the company has resisted the allure of branching out into other business lines in favor of focusing all of its efforts on the defeasance process and maintaining its position as the nation's leading facilitator of commercial mortgage loan defeasances. That singleness of purpose helped Commercial Defeasance to develop the first on-line defeasance calculator at

270 Lafayette

ease.com, which it has continuously offered as a free service to the industry for over five years. Other notable company achievements include pioneering the three day closing process, closing the first Canadian CMBS defeasance, closing a defeasance in just four days to meet a 1031 Exchange deadline, offering the first defeasance education classes, structuring the first defeasance to use a single synthetic security, coordinating with five servicers to close one of the largest defeasances to date on the same day, and obtaining the first letter of technical advice from the State of Florida regarding execution of what has become known as "New York style defeasances" in the State of Florida.

As the original defeasance facilitator, Commercial Defeasance has some natural advantages, but it's the company's long standing commitment to customer service, together with its deep industry relationships and long track record for reliable, timely closings, that maintains its industry leading po-

sition. John Hosmer, CEO of Commercial Defeasance, said, "Out of all of our accomplishments, I'm most proud of the fact that we continue to apply the same high level of customer service, industry knowledge and experience to the defeasance of \$3 million loans every single day that we apply to the defeasance of a \$300 million loan. We consistently deliver exceptional value to the defeasance of loans of all sizes and levels of complexity." That approach has helped the company to defease more than 3,500 CMBS loans totaling over \$40 billion in aggregate original principal balance.

Of the 3,500 commercial loans the company has defeased; over 25% were secured by retail properties many of which are located in the New York metro area. An example of one of the company's New York defeasances is 605 Third Ave. The building contains 20,000 s/f of retail space among 909,000 s/f of highly visible space between 39th and 40th Sts. Owned by Fisher Brothers, 605 Third Ave. is just a few blocks away from Grand Central Terminal and the United Nations and is central to both midtown and midtown-south business districts. Another example is 270 Lafayette. Located in the heart of the SoHo shopping district, 270 Lafayette has 7,000+ s/f of prime retail space and is owned by a subsidiary of The Olnick Organization, Inc.

Commercial Defeasance expects the real estate markets to be robust again in 2007 and looks forward to opportunities to earn the business of anyone whose sale or refinancing requires the defeasance of an existing commercial real estate loan.



605 Third Ave.

In fairness to the servicing representative with whom the borrower spoke, there really was no generally accepted industry process in place to handle the defeasance of any of the billions of dollars of CMBS loans that had been originated in 1997 and 1998 that contained defeasance provisions. That's because even though defeasance began to replace yield maintenance as the standard form of call protection in CMBS loan documents in 1997, the two year REMIC lock-out period meant that the majority of loans with the new defeasance provisions weren't even eligible for defeasance until late 1999 and early 2000. As a result,

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