

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 23-24903-CIV-JB

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

RISHI KAPOOR; *et al.*,

Defendants.

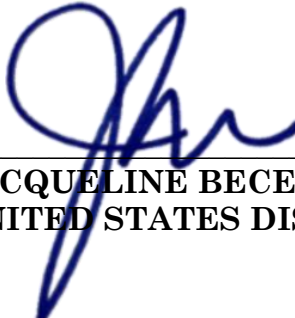
ORDER SETTING STATUS CONFERENCE

The Court has carefully reviewed the supplemental memoranda of law filed by the Receiver and the Halpern Trusts in connection with the Receiver's pending Motion to Approve Sale Free and Clear and Related Settlement Agreement and Claims Process. ECF Nos. [163], [164]. The Court has also carefully reviewed the Receiver's modified proposed order, ECF No. [164-4], which she submitted simultaneously with the supplemental briefing ordered by the Court. Given this timing, the Court recognizes that the Halpern Trusts did not have an opportunity to state its position on the Receiver's modified proposed order. Further, the Court believes that additional changes to the Receiver's modified proposed order are necessary in light of the Eleventh Circuit's decision in *Sec. & Exch. Comm'n v. Wells Fargo Bank, N.A.*, 848 F. 3d 1339 (11th Cir. 2017). Accordingly, the Court has revised the relief set forth in the Receiver's modified proposed order, as reflected in the draft

order attached as an exhibit hereto, and is prepared to grant such relief.

Given the foregoing, a status conference is hereby **SET** for **Monday, June 3, 2024 at 11:30 a.m.** before the undersigned at the James Lawrence King Federal Justice Building, Courtroom 10-06, 99 N.E. 4th Street, Miami, Florida 33132, to address whether the Receiver or the Halpern Trusts object should the Court grant the relief set forth in the attached draft order. Alternatively, the Receiver and the Halpern Trusts may file a joint notice before such date advising the Court that they do not object to entry of the attached draft order, in which case the status conference will be cancelled.

DONE AND ORDERED in Miami, Florida this 30th day of May, 2024.



JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 23-cv-24903-CIV-JB

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

RISHI KAPOOR; *et al.*,

Defendants.

**ORDER GRANTING IN PART RECEIVER'S MOTION TO APPROVE
SALE FREE AND CLEAR AND RELATED SETTLEMENT
AGREEMENT AND CLAIMS PROCESS**

THIS CAUSE came before the Court upon the Receiver, Bernice C. Lee's Motion to Approve Sale Free and Clear and Related Settlement Agreement and Claims Process. ECF No. [128]. Upon due consideration of the Motion, and finding that good cause exists, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Receiver's Motion ECF No. [128] is **GRANTED IN PART** as described herein.
2. The Receiver is authorized to enter the Sale Contract attached to the Motion as Exhibit J, and the Receiver, as the Receiver over Stewart Grove 1, LLC ("Stewart Grove"), is authorized to execute the deed, bill of sale and title affidavit attached to the Sale Contract, and other documents necessary for the proposed sale.
3. While the sale of the Stewart Property will be free and clear of pre-

existing liens as stated in Paragraph 4 below, all liens against the Stewart Property, including, but not limited to, the liens described in the Receiver's Motion and those asserted between April 8, 2024 through the closing date, are not extinguished, but rather, will attach to the funds in the Lien Claim Fund (as defined below), with the same priority, extent and validity as they had prior to the Receivership.

4. The sale of real property with a legal description Lot 1, Block 1, of the Plat of Stewart, according to the plat thereof, as recorded in Plat Book 171, Page 50, of the Public Records of Miami-Dade County, Florida, having folio no. 01-4128-051-0010, and Lot 2, Block 1, of the Plat of Stewart, according to the plat thereof, as recorded in Plat Book 171, Page 50, of the Public Records of Miami-Dade County, Florida, having folio no. 01-4128-051-0020 (together, the "Stewart Property"), to Mimi Chough, as Trustee of the JWY Trust u/t/a dated 7/1/2021 (the "Buyer"), free and clear of all liens, claims and encumbrances, including, but not limited to, the liens described in the Receiver's Motion and those asserted between April 8, 2024 through the closing date, is approved on an as-is, where-is basis, without representations or warranties from the Receiver.
5. Any licensed title insurer and the Buyer are authorized to rely on this Order as authorizing the transfer of legal title to the Stewart Property.
6. The Receiver is authorized to take any and all actions reasonably

necessary to consummate the sale of the Stewart Property including, but not limited to, execute deeds, bills of sale, title affidavits, and closing statements reasonably required to consummate the sale of the Stewart Property in accordance with the terms of the Sale Contract.

7. The settlement agreement between the Receiver and 3610 Stewart Acquisitions, LLC (the "Lender") set forth in the Motion is **APPROVED**.
8. The Receiver is authorized to pay at closing: (a) the Lender Payment (as defined in the Motion) consisting of \$13,923,238.49 for amounts owed through June 20, 2024, and \$3,978.57 per diem at the non-default interest rate of 12.875% for the period after June 20, 2024 through the date the sale of the Stewart Property closes, plus any additional amounts Lender was required to and did advance prior to closing under the Advance Agreement, and interest thereon in accordance therewith, (b) traditional seller's fees and costs specified in the Sale Contract, and (c) the Carveout (as defined in the Motion) to the receivership estate consisting of a payment of \$651,407.28 plus \$3,743.72 per diem for the period after June 20, 2024 through the date the sale of the Stewart Property closes, for the benefit of the receivership estate. The Carveout funds will be free and clear of any liens, claims and encumbrances, and will constitute an unencumbered asset of the receivership estate, with any disbursement subject to the terms of the Receivership Order and

future Court orders.

9. The Receiver is authorized to fund, at closing, a reserve of \$100,000 (the “Lender Fee Reserve”) that will be held by the Receiver, and the Receiver is authorized to release amounts from the Lender Fee Reserve to the Lender for reasonable attorney’s fees and costs incurred after April 26, 2024 for the Stewart Property that have been paid by the Lender, and to the extent there are excess funds in the Lender Fee Reserve after the payment of such fees and costs, such excess funds will be split 50% to the Lender and 50% for the Lien Claim Fund (defined below).
10. The Receiver will separately account for the remaining net sale proceeds after payment of the Lender Payment, Carveout and closing fees and costs, and funding of the Lender Fee Reserve (the “Lien Claim Fund”).
11. The modified proof of lien claim form attached as Exhibit D to the Receiver’s Supplemental Brief on Stewart Sale Motion (the “Proof of Lien Claim”), and modified submission procedure set forth herein are **APPROVED**, and all other relief relating to the lien claims process described in the Motion is denied.
12. On the date that is 60 days after the entry of this Order (the “Lien Claim Submission Date”), any person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and governmental units) who claims to have a right to payment or claim

of any nature, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, mature, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, that arose from the beginning of time through the present date, against Stewart Grove, Stewart Grove 2, LLC and/or the Stewart Property secured by a lien against the Stewart Property *may* complete and submit the Proof of Lien Claim, signed under the penalty of perjury, with supporting documents evidencing the amount, extent, validity, perfection and priority of their claim and lien, including, but not limited to, compliance with applicable state law requirements, to the Receiver by electronic mail to Bernice C. Lee at blee@kttl.com and David L. Rosendorf at dlr@kttl.com for the Receiver to consider in preparing the proposed distribution of the funds in the Lien Claim Fund.

13. Following the Lien Claim Submission Date, the Receiver will file an appropriate motion with the Court to approve the proposed distribution of the funds in the Lien Claim Fund, with notice to all known lien claimants. A lien claimant with a claim against the Lien Claim Fund may file an objection to the motion if it disagrees with the proposed distribution. The Court will thereafter set a briefing schedule and make a final determination regarding the distribution of funds from the Lien Claim Fund.

DONE AND ORDERED in Miami, Florida this ____ day of _____, 2024.

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**JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE**

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