

**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.

**RECEIVER’S MOTION TO APPROVE SETTLEMENT AGREEMENT WITH
LOS PINOS ACQUISITION LLC REGARDING LOS PINOS PROPERTY AND
TO MODIFY AGREED ORDER REGARDING MOTION TO STAY**

Bernice C. Lee, as Receiver (“Receiver”) over the Receivership Companies,¹ seeks the entry of an Order approving a settlement agreement with Los Pinos Acquisition LLC (“**Lender**”) regarding the property located at 7233 Los Pinos Boulevard, Coral Gables, Florida (the “**Los Pinos Property**”). The settlement will enable the receivership estate to recover an additional \$225,000 on account of its potential claims against the Los Pinos Property and avoid any further risk and expense in connection with its ongoing disposition. In support, the Receiver states:

FACTUAL BACKGROUND

I. The Receivership Order & Asset Freeze Order

1. On December 27, 2023 the Securities and Exchange Commission (“**SEC**”)

¹ The “Receivership Companies” include: Location Ventures, LLC, URBIN, LLC, Patriots United, LLC; Location Properties, LLC; Location Development, LLC; Location Capital, LLC; Location Ventures Resources, LLC; Location Equity Holdings, LLC; Location GP Sponsor, LLC; 515 Valencia Sponsor, LLC; LV Montana Sponsor, LLC; URBIN Founders Group, LLC; URBIN CG Sponsor, LLC; 515 Valencia Partners, LLC; LV Montana Phase I, LLC; Stewart Grove 1, LLC; Stewart Grove 2, LLC; Location Zamora Parent, LLC; URBIN Coral Gables Partners, LLC; URBIN Coconut Grove Partners, LLC; URBIN Miami Beach Partners, LLC; and URBIN Miami Beach II Phase 1, LLC.

commenced this action asserting that Rishi Kapoor had committed violations of securities laws in connection with raising over \$90 million in investments in real estate projects through a series of material misrepresentations and omissions. On December 28, 2023, the Court entered a Sealed Order (“**Asset Freeze Order**”) [DE 10] freezing the assets of Mr. Kapoor upon the SEC’s demonstration of a *prima facie* case for a likely disgorgement award against Mr. Kapoor of at least \$4.3 million. The Asset Freeze Order broadly applies to any transfer, disposition, encumbrance or other action with respect to any asset in which Mr. Kapoor – directly or indirectly, jointly or singly – has an interest or otherwise controls.

2. On January 5, 2024, the SEC filed an Expedited Motion for Appointment of Receiver, Asset Freeze, and Other Related Relief Against the Company Defendants and Memorandum of Law (the “**Receiver Motion**”) [DE 16] seeking the appointment of a receiver to *inter alia* administer the Receivership Companies’ assets. On January 12, 2024, the Court entered an Order granting the Receiver Motion (the “**Receivership Order**”) [DE 28], which appointed Bernice C. Lee as receiver “for the estate of the Receivership Companies, including any of [their] divisions, subsidiaries, affiliates, successors, and assigns; and any fictitious business entities or business names created or used by the Receivership Companies, their divisions, subsidiaries, affiliates, successors, and assigns.” Receiver. Order ¶ 2. The Receivership Order defines “Receivership Property” and “Receivership Estate” as including “all property interests . . . of whatever kind, which the Receivership Defendants own, possess, have a beneficial interest in, or control directly or indirectly.” *See* ¶ 7.A.

II. The Los Pinos Property

3. The Los Pinos Property is owned by 7233 Los Pinos, LLC (“**LPLLC**”), which in turn is owned by Kapoor, LLC, which in turn is asserted to be owned by Mr. Kapoor and his wife Jennie Frank Kapoor. LPLLC and Kapoor LLC are not Receivership Companies, but in light of

Mr. Kapoor's ultimate ownership interest, the Los Pinos Property is within the scope of the Asset Freeze Order. The Receiver may have claims assertable against the Los Pinos Property to the extent of all funds of the Receivership Companies used to acquire, pay for or improve the Los Pinos Property.

4. The Los Pinos Property is subject to a mortgage in the original principal amount of approximately \$4.5 million which is held by Los Pinos Acquisition, LLC ("**Lender**"). The Lender had commenced a state court foreclosure action (the "**Foreclosure Action**") against the Los Pinos Property prior to the commencement of the receivership case.

III. The Motion to Stay, LPLLC Bankruptcy & Agreed Order

5. On March 4, 2024, Mr. Kapoor filed a Motion to Stay State Court Proceedings and Permit Sale of Asset Subject to Asset Freeze ("**Motion to Stay**") [DE 94], in which he requested the entry of an order (a) finding that the Los Pinos Property was subject to the Asset Freeze Order, due to Mr. Kapoor's asserted ownership interest; (b) permitting LPLLC to list the Property for sale, subject to this Court's approval of a final offer to purchase the Property; (c) permitting Mr. Kapoor's wife, Jennie Frank Kapoor, to serve as listing associate on the sale of the Property and to receive commission on a sale; and (d) staying the Foreclosure Action for up to six months.

6. The Receiver responded to the Motion to Stay [DE 98] and advised of her position that the Court should authorize the Property to be sold if (a) Mrs. Kapoor is removed as listing associate and the broker certifies that no insider has any interest in or will receive any compensation from the sale; (b) the proposed listing price was supported to the Receiver's reasonable satisfaction; (c) sale of the Property was subject to the consent of the Receiver and SEC or Court approval; (d) all sale proceeds after payment of bona fide third-party liens are escrowed

with Receiver's counsel pending a determination of entitlement thereto;² and (e) only the scheduling and conduct of a foreclosure sale should be stayed in the Foreclosure Action, for no more than 120 days.

7. On March 25, 2024, while the Motion to Stay was still pending, LPLLC filed a voluntary Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the Southern District of Florida, Case No. 24-12797-RAM ("**Bankruptcy Case**"), apparently seeking an alternative forum in which to attempt to sell the Los Pinos Property. The Receiver and Lender both filed motions to dismiss the Bankruptcy Case, arguing among other things that the bankruptcy filing, and any proposed sale, disposition or encumbrance of the Los Pinos Property in the Bankruptcy Case, were prohibited by the Asset Freeze Order.

8. On the morning of the hearing on the motions to dismiss the Bankruptcy Case, the Receiver, Lender, LPLLC, and Mr. Kapoor (individually and on behalf of LPLLC and its owner, Kapoor LLC) reached an agreement to the dismissal of the Bankruptcy Case which was announced on the record at a hearing in the Bankruptcy Court on May 22, 2024. The agreement provided that it would be incorporated into an Agreed Order to be entered by this Court on the Motion to Stay. The Receiver, consistent with the parties' agreement, filed the Receiver's Agreed Motion for Entry of Agreed Order Granting in Part Kapoor's Motion to Stay State Court Proceedings and Permit Sale of Asset Subject to Asset Freeze [DE 169] on May 31, 2024. The Court entered the Agreed Order memorializing the parties' agreement on June 3, 2024. [DE 175]

9. The Agreed Order provided, among other things, for the dismissal of the Bankruptcy Case, for the Los Pinos Property and any proceeds thereof to be subject to the Asset

² The SEC has an interest in the Los Pinos Property because it is potentially subject to a Disgorgement Order. The Receiver has an interest in the Los Pinos Property for any Receivership Company funds improperly obtained by Mr. Kapoor and used to invest in or improve the Property.

Freeze Order, for LPLLC to be permitted to engage a broker and sell the Los Pinos Property subject to the terms set forth in the Agreed Order, including a 90-day Foreclosure Stay Period during which the Lender would not proceed with the Foreclosure Action, which could be extended at the election of the Receiver, and for the net proceeds from any sale to be escrowed with Receiver's counsel pending this Court's determination of entitlement thereto. [DE 175 ¶¶ 7-10].

10. The Agreed Order provided that upon the earlier of the expiration of the Foreclosure Stay Period or 145 days from the date of the Agreed Order, the parties in the Foreclosure Action shall submit a proposed final judgment consented to by LPLLC and Kapoor LLC that sets a foreclosure sale not earlier than 165 days after the date of the bankruptcy dismissal. [DE 175 ¶ 9]. [DE 175 ¶ 10] (emphasis added).

11. The Agreed Order further provided that if LPLLC entered into a bona fide contract (as determined by the Receiver) for sale of the Los Pinos Property within 90 days from the date of the Agreed Order, then Lender shall provide borrower a credit at closing equal to the difference between the contract non-default rate and the default rate for the aforesaid ninety days. If LPLLC did not sell the Los Pinos Property prior to the expiration of the initial Foreclosure Stay Period, and the Receiver elected not to extend the Foreclosure Stay Period, Lender agreed to pay the Receiver an amount equal to the difference between default rate and contract non-default rate interest for an accrual period of ninety days as consideration for not electing to extend the Foreclosure Stay Period. [DE 175 ¶ 11].

12. Except as set forth in the Agreed Order, Mr. Kapoor's Motion to Stay was denied. [DE 175 ¶ 15].

13. The Bankruptcy Case was dismissed on June 7, 2024 and by the terms of the Agreed Order, the 90-day Foreclosure Stay Period expired without further action by the Receiver or the Court on September 5, 2024. LPLLC failed to enter into a bona fide contract to sell the Los Pinos

Property prior to the expiration of the Foreclosure Stay Period. On September 5, 2024, Mr. Kapoor filed a motion to extend the stay [DE 217], which the Court denied [DE 254].

14. The Receiver did not elect to extend the Foreclosure Stay Period. Accordingly, pursuant to the Agreed Order, the Lender paid the Receiver \$150,000 on October 18, 2024.

IV. The Resumed Foreclosure Action

15. Following the expiration of the Foreclosure Stay Period and the Court's denial of Mr. Kapoor's motion to extend the stay, the Lender resumed prosecution of the Foreclosure Action. Mr. Kapoor vacated the Los Pinos Property, and on October 23, 2024, the state court entered an order appointing Melanie Damian as receiver over the Los Pinos Property. The state court receiver was given authority to sell the Los Pinos Property after November 5, 2024, subject to the Lender and Receiver's consent and approval by the state court and, if so requested by the Receiver, this Court. The state court receiver sought to engage a broker to list the Los Pinos Property for sale for \$7.3 million, with a total commission of 4.5% (which would be \$328,500 if the Los Pinos Property sold for the \$7.3 million listing price).

16. On December 11, 2024, the state court entered an Agreed Final Judgment of Foreclosure in favor of Lender for a total of \$7,053,558.12, which includes the principal balance of \$4,481,250, interest through November 27, 2024 totaling \$1,957,461.57, attorneys' fees and costs and interest thereon totaling \$407,185.63, and various other costs (including insurance, taxes, receiver expenses, and appraisals) totaling \$207,660.92, and scheduling a foreclosure sale for February 10, 2025. The state court simultaneously entered an order providing that the judgment may be vacated or amended at the Receiver's request, and the foreclosure sale canceled, in the event that the settlement described in this motion is not approved.

17. In light of the asserted amount of the Lender's debt and the commissions and other costs, including real estate taxes, that would be associated with a sale of the Los Pinos Property, it

is far from certain that there would be *any* recovery in excess of the debt even if the property were to sell for the \$7.3 million listing price. After negotiating the proposed settlement described herein, the Receiver was advised that the state court receiver has obtained a \$7.3 million offer for the Los Pinos Property. The Receiver was more recently advised that the buyer on January 8, 2025 gave notice purporting to terminate the purchase agreement prior to expiration of their inspection period. Even should that sale or another sale close, the Receiver, based on the considerations set forth herein, continues to believe that the settlement represents a fair and reasonable resolution of the Receiver's interest in the Los Pinos Property that yields a greater return to the receivership estate than any other alternative.

V. The Settlement with Lender

18. After extensive negotiations, the Lender and Receiver have reached a settlement to resolve and liquidate the Receiver's interest in the Los Pinos Property. The Lender and Receiver have agreed as follows:

- (1) Lender will pay the Receiver \$225,000 upon the Court's approval of this settlement in satisfaction of all claims of the Receiver against the Los Pinos Property, including any claims by the Receiver to the equity in the Los Pinos Property and any claims by the Receiver for surcharge for the fees and costs incurred by the Receiver and her professionals in connection with the Los Pinos Property.
- (2) The foregoing shall not satisfy or release any other person or entity from any claims the Receiver may have, including without limitation claims against LPLLC, Kapoor, LLC, Rishi Kapoor, or Jenny Kapoor.
- (3) The agreement is subject to the approval of the SEC and approval by this Court.
- (4) Upon Court approval, the terms of any prior orders requiring the SEC or Receiver's consent to any sale or disposition of the Los Pinos Property (including the Agreed Order) will be deemed no longer in effect.
- (5) Except as set forth herein, this agreement is not intended to modify the agreement set forth in the Receiver's Expedited Motion to Approve Sale of Miami Beach Property Free and Clear and Related Settlement Agreement (the "**Miami Beach Sale Motion**") [DE 220], granted by this Court's November 7, 2024 Order [DE 293], that provides for a \$50,000 carve-out payable by Lender at closing or other disposition of the Los Pinos Property. However, Lender, Receiver and the Miami

Beach lender, 1234 Washington Acquisition, LLC (“**Miami Beach Lender**”) have agreed that in lieu of the \$50,000 carve-out being payable from the Los Pinos Property, Miami Beach Lender will pay the \$50,000 as a carve-out from its share of the proceeds of the real property that is the subject of the Miami Beach Sale Motion (the “**Miami Beach Property**”) upon sale, or upon other disposition of the Miami Beach Property.³

19. Through this Motion, the Receiver seeks: (a) approval of the settlement agreement with Lender, and (b) modification of the Agreed Order to provide that upon satisfying its obligations under the settlement, Lender may proceed with sale or other disposition of the Los Pinos Property without further approval or consent of the SEC or Receiver or this Court. The proposed settlement will enable the Receiver to recover a substantial amount on account of the receivership estate’s claims against the Los Pinos Property, without the further risk, delay and expense of continued participation in the foreclosure proceedings and sale process.

20. The Lender has deposited the sum of \$225,000 into Receiver’s counsel’s trust account pending the Court’s consideration and approval of the proposed settlement.

MEMORANDUM OF LAW

I. The Court Should Approve the Settlement with the Lender Relating to the Los Pinos Property.

“The district court has broad powers and wide discretion to determine relief in an equity receivership.” *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (citations omitted). “This discretion derives from the inherent powers of an equity court to fashion relief.” *Id.* “A district court reviews settlements proposed by receivers for fairness, reasonableness, and adequacy.” *Sec.*

³ As part of the Miami Beach Sale Motion, the Miami Beach Lender had agreed to have Lender, an affiliate, provide a \$50,000 carve-out from the Los Pinos Property. By this modification, the parties have agreed that the \$50,000 shall be paid from Miami Beach Lender’s share of the proceeds of the Miami Beach Property rather than from the Los Pinos Property. This reduces the amount of proceeds to be received by the Miami Beach Lender only. The Miami Beach sale closed last week, and \$50,000 from the Miami Beach closing has been wired to the Receiver’s counsel’s trust account pending the Court’s consideration and approval of this settlement.

& Exch. Comm'n v. I Glob. Cap. LLC, No. 18-CV-61991, 2018 WL 8050527, at *2 (S.D. Fla. Dec. 27, 2018); *see Sterling v. Stewart*, 158 F.3d 1199, 1201 (11th Cir. 1998) (approving settlement because managing receiver acted in good faith and conducted adequate investigation and settlement was fair); *Sec. & Exch. Comm'n v. Quiros*, No. 16-CV-21301, 2016 WL 9254719, at *2 (S.D. Fla. Oct. 18, 2016) (approving settlement as fair, adequate and reasonable, and well within the range of reasonableness). “Determining fairness is left to the sound discretion of the district court.” *Sec. & Exch. Comm'n v. I Glob. Cap. LLC*, 2018 WL 8050527, at *2 (citing *Sterling*, 1158 F. 3d at 1202).

The proposed settlement is well within the range of reasonableness. The Receiver believes the proposed settlement constitutes a fair resolution with respect to the receivership estate’s interest in the Los Pinos Property. As noted above, the Los Pinos Property is not a receivership asset, though it is subject to the Asset Freeze Order by virtue of Mr. Kapoor’s asserted ownership interest. In order for the Receiver to successfully assert a claim against the Los Pinos Property, the Receiver would need to establish that Receivership Companies’ funds were used to acquire, invest in or improve the Los Pinos Property. Mr. Kapoor has asserted that the funds used to acquire the Los Pinos Property were not derived from the Receivership Companies. Even upon prevailing on such a claim, the Receiver would further have to address the first mortgage claim of the Lender before being able to realize upon any equity in the Los Pinos Property. As noted above, it is far from clear, particularly after LPLLC, its broker and Mr. Kapoor’s failure to successfully negotiate a sale of the property during the Foreclosure Stay Period, that there is a viable prospect for realizing equity in the property above the Lender’s debt in an amount that exceeds the \$225,000 settlement payment, even should the property sell for the \$7.3 million listing price through the broker engaged by the state court receiver.

As a result of the settlement, the Receiver will have recovered a total of \$375,000 on account of her interest in the Los Pinos Property (i.e., the \$150,000 previously paid by Lender when the Receiver elected not to extend the Foreclosure Stay Period, plus the \$225,000 to be paid under the settlement), without any of the risk or expense associated with litigating her claims against the Los Pinos Property and continuing to participate in the ongoing process of selling the property through the state court receiver or a foreclosure sale.

II. The Agreed Order Should be Modified Consistent with the Settlement.

In conjunction with approval of the settlement, the Receiver requests that the Court modify the Agreed Order [DE 175] to provide that certain terms therein shall no longer be effective upon the Lender's performance of its obligations under the settlement. Because the settlement will resolve and satisfy the Receiver's interest in the Los Pinos Property, the Receiver submits that the following provisions should be deemed no longer effective:

(1) The provision that the Los Pinos Property and any proceeds thereof are subject to the Asset Freeze Order (¶2);

(2) The provision requiring disclosure and approval by the Receiver and SEC of any sale of the Los Pinos Property (¶4);

(3) The provision requiring net proceeds from the sale of the Los Pinos Property to be escrowed with Receiver's counsel pending a determination as to entitlement by this Court (¶7);
and

(4) The provision requiring LPLLC to provide reasonable access to the Property upon request from the Receiver (¶13).

In consideration of all of the foregoing, the Receiver submits that the settlement represents an appropriate resolution of the receivership estate's claims with regard to the Los Pinos Property and relieves the receivership estate from any further risk, expense and delay associated with the

prosecution of the Receiver's claims against the Los Pinos Property while generating a return to the receivership estate.

WHEREFORE, the Receiver respectfully requests the entry of an order substantially in the same form as the proposed order attached hereto as **Exhibit 1**: (a) approving the settlement agreement with the Lender regarding the Los Pinos Property, and (b) granting such other and further relief as the Court deems just and proper.

CERTIFICATION OF CONFERENCE WITH COUNSEL

Counsel for the SEC has informed undersigned counsel that the SEC has consented to the relief requested herein. Counsel for defendant Rishi Kapoor has informed undersigned counsel that Rishi Kapoor intends to oppose the relief requested herein.

Respectfully submitted,

KOZYAK TROPIN & THROCKMORTON, LLP
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Coral Gables, Florida 33134
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By: /s/ David L. Rosendorf
David L. Rosendorf
Florida Bar No. 996823
Counsel for Bernice C. Lee, Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served this 13th day of January, 2025 via CM/ECF upon all counsel of record.

By: /s/ David L. Rosendorf
David L. Rosendorf

**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 GRANTING RECEIVER’S MOTION TO APPROVE SETTLEMENT
AGREEMENT WITH LOS PINOS ACQUISITION LLC
REGARDING LOS PINOS PROPERTY**

THIS CAUSE came before the Court upon the Receiver, Bernice C. Lee’s Motion to Approve Settlement Agreement with Los Pinos Acquisition LLC Regarding Los Pinos Property (“Motion”). ECF No. [___]. The Court has carefully considered the Motion, and the accompanying exhibits, as well the pertinent portions of the record and the relevant legal authorities. For the reasons explained more fully below, the Motion, ECF No. [___] is **GRANTED**.

I. BACKGROUND

A. The Receivership Order and Asset Freeze Order

On December 27, 2023 the Securities and Exchange Commission (“**SEC**”) commenced this action asserting that Rishi Kapoor had committed violations of securities laws in connection with raising over \$90 million in investments in real estate projects through a series of material misrepresentations and omissions. *See generally* Complaint, ECF No. [14-1]. On December 28, 2023, the Court entered a Sealed Order (“**Asset Freeze Order**”) ECF No. [10] freezing the assets of Mr. Kapoor upon the SEC’s demonstration of a *prima facie* case for a likely disgorgement award against Mr. Kapoor of at least \$4.3 million. The Asset Freeze Order broadly applies to any transfer,

disposition, encumbrance or other action with respect to any asset in which Mr. Kapoor – directly or indirectly, jointly or singly – has an interest or otherwise controls.

On January 5, 2024, the SEC filed an Expedited Motion for Appointment of Receiver, Asset Freeze, and Other Related Relief Against the Company Defendants and Memorandum of Law (the “**Receiver Motion**”) ECF No. [16] seeking the appointment of a receiver to *inter alia* administer the Receivership Companies’ assets. On January 12, 2024, the Court entered an Order granting the Receiver Motion (the “**Receivership Order**”) ECF No. [28], which appointed Ms. Lee as receiver “for the estate of the Receivership Companies, including any of [their] divisions, subsidiaries, affiliates, successors, and assigns; and any fictitious business entities or business names created or used by the Receivership Companies, their divisions, subsidiaries, affiliates, successors, and assigns.” *Id.* at ¶ 2. The Receivership Order defines “Receivership Property” and “Receivership Estate” as including “all property interests . . . of whatever kind, which the Receivership Defendants own, possess, have a beneficial interest in, or control directly or indirectly.” *Id.* at ¶ 7.A.

B. The Los Pinos Property

The property located at 7233 Los Pinos Boulevard, Coral Gables, Florida (the “**Los Pinos Property**”) is owned by 7233 Los Pinos, LLC (“**LPLLC**”), which in turn is owned by Kapoor, LLC, which in turn is asserted to be owned by Mr. Kapoor and his wife Jennie Frank Kapoor. LPLLC and Kapoor LLC are not Receivership Companies, but in light of Mr. Kapoor’s ultimate ownership interest, the Los Pinos Property is within the scope of the Asset Freeze Order. The Receiver advises that she may have claims assertable against the Los Pinos Property to the extent of all funds of the Receivership Companies used to acquire, pay for or improve the Los Pinos Property.

The Los Pinos Property is subject to a mortgage in the original principal amount of approximately \$4.5 million which is held by Los Pinos Acquisition, LLC (“**Lender**”). The Lender had commenced a state court foreclosure action (the “**Foreclosure Action**”) against the Los Pinos Property prior to the commencement of the receivership case.

C. The Motion to Stay, LPLLC Bankruptcy & Agreed Order

On March 4, 2024, Mr. Kapoor filed a Motion to Stay State Court Proceedings and Permit Sale of Asset Subject to Asset Freeze (“**Motion to Stay**”) ECF No. [94], in which he requested the entry of an order (a) finding that the Los Pinos Property was subject to the Asset Freeze Order, due to Mr. Kapoor’s asserted ownership interest; (b) permitting LPLLC to list the Property for sale, subject to this Court’s approval of a final offer to purchase the Property; (c) permitting Mr. Kapoor’s wife, Jennie Frank Kapoor, to serve as listing associate on the sale of the Property and to receive commission on a sale; and (d) staying the Foreclosure Action for up to six months. The Receiver responded and objected to the Motion to Stay ECF No. [98] and advised of her position that the Court should authorize the Property to be sold if (a) Mrs. Kapoor is removed as listing associate and the broker certifies that no insider has any interest in or will receive any compensation from the sale; (b) the proposed listing price was supported to the Receiver’s reasonable satisfaction; (c) sale of the Property was subject to the consent of the Receiver and SEC or Court approval; (d) all sale proceeds after payment of bona fide third-party liens are escrowed with Receiver’s counsel pending a determination of entitlement thereto;¹ and (e) only the scheduling and conduct of a foreclosure sale should be stayed in the Foreclosure Action, for no more than 120 days.

¹ The SEC has an interest in the Los Pinos Property because it is potentially subject to a Disgorgement Order. The Receiver has an interest in the Los Pinos Property for any Receivership Company funds improperly obtained by Mr. Kapoor and used to invest in or improve the Property.

On March 25, 2024, while the Motion to Stay was still pending, LPLLC filed a voluntary Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the Southern District of Florida, Case No. 24-12797-RAM (“**Bankruptcy Case**”). On the morning of the hearing on the motions to dismiss the Bankruptcy Case, the Receiver, Lender, LPLLC, and Mr. Kapoor (individually and on behalf of LPLLC and its owner, Kapoor LLC) reached an agreement to the dismissal of the Bankruptcy Case which was announced on the record at a hearing in the Bankruptcy Court on May 22, 2024. The agreement provided that settlement terms would be incorporated into an Agreed Order to be entered by this Court on the Motion to Stay. The Receiver filed the Receiver’s Agreed Motion for Entry of Agreed Order Granting in Part Kapoor’s Motion to Stay State Court Proceedings and Permit Sale of Asset Subject to Asset Freeze ECF No. [169] on May 31, 2024, and the Court entered the Agreed Order memorializing the parties’ agreement on June 3, 2024. ECF No. [175]

The Agreed Order provided, among other things, for the dismissal of the Bankruptcy Case, for the Los Pinos Property and any proceeds thereof to be subject to the Asset Freeze Order, for LPLLC to be permitted to engage a non-insider broker and sell the Los Pinos Property subject to the terms set forth in the Agreed Order, including a 90-day Foreclosure Stay Period during which the Lender would not proceed with the Foreclosure Action, which could be extended at the election of the Receiver, and for the proceeds of sale to be escrowed with Receiver’s counsel. ECF No. [175 ¶¶ 7 - 10]. The Agreed Order provided that upon the earlier of the expiration of the Foreclosure Stay Period or 145 days from the date of the Agreed Order, the parties in the Foreclosure Action shall submit a proposed final judgment consented to by LPLLC and Kapoor LLC that sets a foreclosure sale not earlier than 165 days after the date of the bankruptcy dismissal. [DE 175 ¶ 9].

The Agreed Order further provided that if LPLLC entered into a bona fide contract (as determined by the Receiver) for sale of the Los Pinos Property within 90 days from the date of the Agreed Order, then Lender shall provide borrower a credit at closing equal to the difference between the contract non-default rate and the default rate for the aforesaid ninety days. If LPLLC did not sell the Los Pinos Property prior to the expiration of the initial Foreclosure Stay Period, and the Receiver elected not to extend the Foreclosure Stay Period, Lender agreed to pay the Receiver an amount equal to the difference between default rate and contract non-default rate interest for an accrual period of ninety days as consideration for not electing to extend the Foreclosure Stay Period. [DE 175 ¶ 11]. Except as set forth in the Agreed Order, Mr. Kapoor's Motion to Stay was denied. [DE 175 ¶ 15].

The Bankruptcy Case was dismissed on June 7, 2024 and by the terms of the Agreed Order, the 90-day Foreclosure Stay Period expired without further action by the Receiver or the Court on September 5, 2024. LPLLC failed to enter into a bona fide contract to sell the Los Pinos Property prior to the expiration of the Foreclosure Stay Period. On September 5, 2024, Mr. Kapoor filed a motion to extend the stay [DE 217], which the Court denied [DE 254]. The Receiver did not elect to extend the Foreclosure Stay Period. Accordingly, pursuant to the Agreed Order, the Lender paid the Receiver \$150,000 on October 18, 2024.

D. The Resumed Foreclosure Action

Following the expiration of the Foreclosure Stay Period and the Court's denial of Mr. Kapoor's motion to extend the stay, the Lender resumed prosecution of the Foreclosure Action. Mr. Kapoor vacated the Los Pinos Property, and on October 23, 2024, the state court entered an order appointing Melanie Damian as receiver over the Los Pinos Property. The state court receiver was given authority to sell the Los Pinos Property after November 5, 2024, subject to the Lender

and Receiver's consent and approval by the state court and, if so requested by the Receiver, this Court. The state court receiver sought to engage a broker to list the Los Pinos Property for sale for \$7.3 million, with a total commission of 4.5% (which would be \$328,500 if the Los Pinos Property sold for the \$7.3 million listing price). On December 11, 2024, the state court entered an Agreed Final Judgment of Foreclosure in favor of Lender for a total of \$7,053,558.12 and scheduled a foreclosure sale for February 10, 2025. The state court simultaneously entered an order providing that the judgment may be vacated or amended at the Receiver's request, and the foreclosure sale canceled, in the event that the settlement described in this motion is not approved. The Receiver has been advised that the state court receiver has received a \$7.3 million offer for the Los Pinos Property, and has been further advised that the proposed buyer purported to give notice of their intention to terminate the purchase agreement following inspection. In light of the asserted amount of the Lender's debt and the commissions and other costs, including real estate taxes, that would be associated with a sale of the Los Pinos Property, the Receiver has advised that it is far from certain that there would be *any* recovery in excess of the debt even if the Los Pinos Property were to sell for the \$7.3 million listing price.

E. The Receiver's Settlement with Lender

After extensive negotiations, the Lender and Receiver reached a settlement to resolve and liquidate the Receiver's interest in the Los Pinos Property, the terms of which are set forth in the Motion. The Motion has been served on all counsel and parties who have appeared in this action.

The terms of the settlement are:

- (1) Lender will pay the Receiver \$225,000 upon the Court's approval of this settlement in satisfaction of all claims of the Receiver against the Los Pinos Property, including any claims by the Receiver to the equity in the Los Pinos Property and any claims by the Receiver for surcharge for the fees and costs incurred by the Receiver and her professionals in connection with the Los Pinos Property.
- (2) The foregoing shall not satisfy or release any other person or entity from any claims

the Receiver may have, including without limitation claims against LPLLC, Kapoor, LLC, Rishi Kapoor, or Jenny Kapoor.

- (3) The agreement is subject to the approval of the SEC and approval by this Court.
- (4) Upon Court approval, the terms of any prior orders requiring Receiver's consent to any sale or disposition of the Los Pinos Property (including the Agreed Order) will be deemed no longer in effect.
- (5) Except as set forth herein, this agreement is not intended to modify the agreement set forth in the Receiver's Expedited Motion to Approve Sale of Miami Beach Property Free and Clear and Related Settlement Agreement (the "**Miami Beach Sale Motion**") [DE 220], granted by this Court's November 7, 2024 Order [DE 293], that provides for a \$50,000 carve-out payable by Lender at closing or other disposition of the Los Pinos Property. However, Lender, Receiver and the Miami Beach lender, 1234 Washington Acquisition, LLC ("**Miami Beach Lender**") have agreed that in lieu of the \$50,000 carve-out being payable from the Los Pinos Property, Miami Beach Lender will pay the \$50,000 as a carve-out from its share of the proceeds of the real property that is the subject of the Miami Beach Sale Motion (the "**Miami Beach Property**") upon sale, or upon other disposition of the Miami Beach Property.²

The Receiver asserts that the settlement represents a fair resolution with respect to the receivership estate's potential interest in the Los Pinos Property which will enable the Receiver to recover a substantial amount on account of the receivership estate's claims against the Los Pinos Property without the further risk, delay and expense of continued participation in the foreclosure proceedings and sale process. Moreover, because the settlement resolves and liquidates the receivership estate's interest in the Los Pinos Property, the Receiver submits that the terms in the Court's prior Agreed Order requiring SEC and Receiver consent to the disposition of the Los Pinos Property should be deemed no longer in effect.

² As part of the Miami Beach Sale Motion, the Miami Beach Lender had agreed to have Lender, an affiliate, provide a \$50,000 carve-out from the Los Pinos Property. By this modification, the parties have agreed that the \$50,000 shall be paid from Miami Beach Lender's share of the proceeds of the Miami Beach Property rather than from the Los Pinos Property. This reduces the amount of proceeds to be received by the Miami Beach Lender only. The \$50,000 deposited with Receiver's counsel from the Miami Beach closing, as referenced in the Motion may be released to the Receiver upon entry of this Order.

II. ANALYSIS

“The district court has broad powers and wide discretion to determine relief in an equity receivership.” *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (citations omitted). “This discretion derives from the inherent powers of an equity court to fashion relief.” *Id.* “A district court reviews settlements proposed by receivers for fairness, reasonableness, and adequacy.” *Sec. & Exch. Comm’n v. I Glob. Cap. LLC*, No. 18-CV-61991, 2018 WL 8050527, at *2 (S.D. Fla. Dec. 27, 2018); *see Sterling v. Stewart*, 158 F.3d 1199, 1201 (11th Cir. 1998) (approving settlement because managing receiver acted in good faith and conducted adequate investigation and settlement was fair); *Sec. & Exch. Comm’n v. Quiros*, No. 16-CV-21301, 2016 WL 9254719, at *2 (S.D. Fla. Oct. 18, 2016) (approving settlement as fair, adequate and reasonable, and well within the range of reasonableness). “Determining fairness is left to the sound discretion of the district court.” *Sec. & Exch. Comm’n v. I Glob. Cap. LLC*, 2018 WL 8050527, at *2 (citing *Sterling*, 1158 F. 3d at 1202).

The proposed settlement is well within the range of reasonableness. The Receiver has shown that the proposed settlement constitutes a fair resolution with respect to the receivership estate’s interest in the Los Pinos Property. As noted above, the Los Pinos Property is not a receivership asset, though it is subject to the Asset Freeze Order by virtue of Mr. Kapoor’s asserted ownership interest. The Receiver has stated that in order for the Receiver to successfully assert a claim against the Los Pinos Property, she would need to establish that Receivership Companies’ funds were used to acquire, invest in or improve the Los Pinos Property, and then further address the first mortgage claim of the Lender before being able to realize upon any equity in the Los Pinos Property. Mr. Kapoor has asserted that the funds used to acquire the Los Pinos Property were not derived from the Receivership Companies. As noted above, it is far from clear, particularly after

LPLLC, its broker and Mr. Kapoor's failure to successfully negotiate a sale of the property during the Foreclosure Stay Period, that there is a viable prospect for realizing equity in the property above the Lender's debt in an amount that exceeds the \$225,000 settlement payment.

Under the settlement, the Receiver will recover a total of \$375,000 on account of her interest in the Los Pinos Property (i.e., the \$150,000 previously paid by Lender when the Receiver elected not to extend the Foreclosure Stay Period, plus the \$225,000 to be paid under the settlement), without any of the risk or expense associated with litigating her claims against the Los Pinos Property and continuing to participate in the ongoing process of selling the Los Pinos Property through the state court receiver or a foreclosure sale.

III. CONCLUSION

For the foregoing reasons, and finding that good cause exists, it is hereby ORDERED AND ADJUDGED as follows:

1. The Receiver's Motion ECF No. [____] is **GRANTED**.
2. All interested parties listed in the service list for the Motion have had the opportunity to object to the relief granted by this Order and, to the extent that any objections have not been withdrawn or resolved by stipulation prior to the entry of this Order or are not resolved by the relief granted herein or as stated in the record, all such objections are hereby overruled.
3. The settlement agreement between the Receiver and Lender set forth in the Motion is **APPROVED**, and Receiver and Lender are authorized and directed to perform in accordance with its terms.
4. The Agreed Order [DE 175] is hereby modified to provide that the following provisions shall no longer be effective:

- (1) The provision that the Los Pinos Property and any proceeds thereof are subject to the Asset Freeze Order (§2);
- (2) The provision requiring disclosure and approval by the Receiver and SEC of any sale of the Los Pinos Property (§4);
- (3) The provision requiring net proceeds from the sale of the Los Pinos Property to be escrowed with Receiver's counsel pending a determination as to entitlement by this Court (§7); and
- (4) The provision requiring LPLLC to provide reasonable access to the Property upon request from the Receiver (§13).

DONE AND ORDERED in Miami, Florida this ____ day of _____, 2025.

JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE