

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.

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ORDER GRANTING RECEIVER'S MOTION TO APPROVE  
DISBURSEMENT OF VALENCIA LIEN CLAIM FUND  
PROCEEDS FROM SALE OF UNIT 1104

**THIS CAUSE** came before the Court upon the Receiver, Bernice C. Lee's, Motion to Approve Disbursement of Valencia Lien Claim Fund Proceeds from Sale of Unit 1104 (the "Motion"). ECF No. [364]. Non-Party Mironest CG, LLC filed a Conditional Objection to the Motion, which it has now withdrawn. ECF Nos. [377, 420]. The Court has carefully considered the Motion, as well as the pertinent portions of the record and the relevant legal authorities. For the reasons explained more fully below, the Motion, ECF No. [364], is **GRANTED**.

**I. BACKGROUND**

On December 27, 2023, the Securities and Exchange Commission ("SEC") filed a Complaint for Injunctive Relief against Rishi Kapoor ("Kapoor") and the Receivership Companies alleging that Kapoor used the Receivership Companies to operate a real estate scheme in violation of the anti-fraud provisions of the federal securities law raising approximately \$93 million from more than 50 investors from January 2018 through

March 2023. *See generally* Complaint, ECF No. [14-1]. On January 12, 2024, the Court entered an Order appointing 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.” (“Receivership Order”). ECF No. [28] at ¶ 2.

The Receivership Order authorizes the Receiver to sell real property in the Receivership Estate, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property. *Id.* at ¶ 32. The Receivership Order further provides that “[u]pon further Order of the Court, pursuant to such procedures as may be required by the Court and additional authority such as 28 U.S.C. sections 2001 and 2004, the Receiver is authorized to sell, and transfer clear title to, all real property in the Receivership Estate.” *Id.* at ¶ 33.

On January 24, 2024, the Court entered an Order approving the parties’ Stipulation Waiving Requirements of 28 U.S.C. § 2001(a) and (b) in Connection with Real Property Sale Motion. ECF No. [51]. The Order provides that “[t]he Receiver is excused from compliance with 28 U.S.C. section 2001 in connection with the sale of real property in this case.” ECF No. [51].

On August 29, 2024, the Court entered the Order Granting Receiver’s Expedited Motion to approve Sale of Valencia Unit 1104 Property Free and Clear (the “Sale Order”) that: (a) approved the sale of Unit 1104 owned by 515 Valencia SPE, LLC (“Valencia SPE”), a wholly owned subsidiary of 515 Valencia Partners, LLC, a Receivership

Company, free and clear of any liens, claims, interests and encumbrances; (b) authorized the Receiver to pay real estate taxes and the seller's fees and costs under the sale contract; and (c) authorized the Receiver to separately account for the remaining net proceeds (the "Valencia Lien Claim Fund"). ECF No. 216. The Sale Order further provided that the Receiver will file an appropriate pleading or motion with the Court to address the proposed allocation and distribution of the net sale proceeds. *Id.* at ¶ 10.

The Receiver has advised the Court that on November 1, 2024, the sale closed, and the buyer paid the: (a) \$3,960,000 sale price; (b) \$50,000 additional purchase fee; and (c) \$1,591.91 to reimburse the receivership estate for electrical bills paid by the estate while the sale contract was pending. *See* Motion at ¶ 11. The receivership estate paid: (a) \$31,595.93 for pro-rated real estate taxes for January 1, 2024, through November 1, 2024; (b) \$5.67 for other taxes; (c) \$12,475 for owner's title insurance; (d) \$23,896.50 for recording fees; and (e) \$1,385 for lien letters and lien and title searches. *Id.* The total of the sale price and additional purchase fee is \$4,010,000, and the seller amounts paid at closing total \$69,358.10. *Id.* After, the closing agent provided a check for \$50.00 as additional seller proceeds for an overage for recording fees. *Id.* The Valencia Lien Claim Fund has a balance of \$3,940,691.90. *Id.*

Unit 1104 is encumbered by a senior mortgage in favor of 515 Valencia Acquisition, LLC (the "Lender"), and its predecessors in interest 2EE, LLC ("2EE") and RLC Funding, LLC ("RLC") (collectively, the "Lenders") that provided loans to Valencia SPE secured by mortgages on the Valencia Building condominium units. *Id.* at ¶ 12–13. In November 2023, the Lender filed a foreclosure action for \$3,750,000 in unpaid principal and seeking 24.99% default interest. *Id.* The Lender provided the Receiver

payoff information that represented \$3,750,000 in principal and \$1,068,067.52 in interest was due as of August 31, 2024, and the per diem rate at 24.99% default interest is \$2,567.47. *Id.* at ¶ 18. The initial mortgage for the Lender's debt was recorded April 9, 2018, and the amended and restated mortgage was recorded on July 12, 2019, before the claim of liens recorded by the other claimants. *Id.* at ¶ 20.

The only Response to the Motion was the Conditional Objection filed by Mironest CG LLC ("Mironest"), ECF No. [377], which has been resolved by the provisions of this Order and was withdrawn, ECF No. [420]. J&P Tiles Inc. ("J&P") filed a motion for extension of time to respond to the Motion, ECF No. [387], and although the Court granted the requested extension, ECF No. [390], J&P did not ultimately file any response or objection.

Prior to the commencement of the receivership, an action was filed in state court by Mironest, which entered into a purchase agreement for Unit 1202 at the Valencia Project prior to the receivership, which alleges, inter alia, that Lenders or their affiliates and principals continued to fund loans to Valencia SPE despite having actual or constructive knowledge of the misuse of funds by one or more Receivership Companies and its affiliates and principals, and seeks a declaration that the Lender's liens are invalid, or alternatively should be equitably subordinated to that party's claims. The Receiver and her professionals are reviewing over 40,000 transactions occurring across more than 45 bank accounts, and purchaser deposits for the Miami Beach, Commodore and Villa Valencia properties, as well as other transactions engaged in by the Receivership Companies and potential recoveries for the Receivership Estate in connection with those transactions, including those in connection with Lenders' Loan. To

date, the Receiver and her professionals have reviewed the loan documents in connection with Lender's Loan, the related closing statements, the financial and transactional information relating to the receipts and disbursements in connection with the Loan, correspondence and communications relating to the Loan, and other relevant information. The Receiver is investigating all potential avenues of potential recovery, including substantial payments made to certain equity investors prior to the commencement of the SEC action, intercompany transfers, payments to or for the benefit of insiders, and other questionable transactions. The Receiver has and will continue to review relevant information relating to the Valencia Project with regard to potential recoveries on behalf of the Receivership Companies.

## II. ANALYSIS

"The district court has broad powers and wide discretion to determine relief in an equity receivership." *SEC 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.* The Court's broad powers and wide discretion to determine relief in an equity receivership encompass granting relief with respect to the disbursement of funds from the sale of real property. Under the Receivership Order, the Receiver is "authorized, empowered, and directed to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property[.]" See *id.* ¶ 46.

The Receiver has shown that the proposed distribution is fair and reasonable given the circumstances. The Lender provided the Receiver with a payoff that represented \$3,750,000 in principal and \$1,068,067.52 in interest that was due as of August 31, 2024,

which totals \$4,818,068, and \$2,567.47 as the per diem rate at 24.99% default interest, which totals \$5,488,177.67 (\$3,750,000 in principal and \$1,738,177.19 in interest) as of May 19, 2025. The payment of \$3,940,691.90 from the net proceeds in the Valencia Lien Claim Fund will substantially reduce the debt owed to the Lender, and thus reduce any additional interest the Lender may assert. This reduction increases the likelihood of greater payments to the junior lender, lien holders, and, potentially, unsecured creditors and investors. The Receiver reserves all rights with respect to the total amount the Lender may claim is owed under the loan documents, including, but not limited to, accrued and unpaid interest, attorneys' fees, and other expenses and costs, and application of payments to such amounts.

### **III. CONCLUSION**

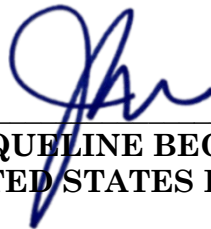
For the foregoing reasons, and finding that good cause exists, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Receiver's Motion, ECF No. [364], is **GRANTED**.
2. All interested parties listed in the service list for the Motion, and any other interested parties that have otherwise received notice of 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 herein or in the record, all such objections are hereby **OVERRULED**.
3. This Order, and any disbursement made thereunder, are without prejudice to the rights of the Receiver to seek to claw back or otherwise recover from

the Lenders and their affiliates and principals some or all of the amounts disbursed pursuant to this Order or otherwise paid to Lender, the Receiver's rights to object to any claim asserted by Lender, including to equitably subordinate and/or recharacterize as equity all or a portion of the Lender's claim, the Receiver's rights or claims against any other party, or claims which may be asserted against Lenders and their affiliates by others if the stay of litigation in the Receivership Order is lifted or modified.

4. The Receiver's proposed distribution of the net sale proceeds from the Valencia Lien Claim Fund is **APPROVED**.
5. The Receiver is authorized to disburse the **\$3,940,691.90** to the Lender upon entry of this Order.

**DONE AND ORDERED** in Miami, Florida this 21st day of May, 2025.



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**JACQUELINE BECERRA**  
**UNITED STATES DISTRICT JUDGE**