

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 23-cv-24903-JB

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

RISHI KAPOOR; *et al.*,

Defendants.

**ORDER DENYING EXPEDITED MOTION BY MEMBERS OF URBIN
COCONUT GROVE PARTNERS, LLC FOR RELIEF FROM STAY AND/OR
FOR PARTIAL VACATION, MODIFICATION, OR CLARIFICATION OF
ORDER APPOINTING RECEIVER**

THIS CAUSE came before the Court upon the Expedited Motion by Members of Urbin Coconut Grove Partners, LLC (“CG Investors”) for Relief From Stay of Ancillary Litigation and/or for Partial Vacation, Modification, or Clarification of Order Appointing Receiver and, if Necessary, to Intervene. ECF No. [244]. The Receiver, Bernice C. Lee, filed a Response in Opposition in which Plaintiff, Securities and Exchange Commission, joined. ECF Nos. [282], [283]. CG Investors filed a Reply in support of the Motion. ECF No. [291]. On May 28, 2025, the Court heard oral argument on the Motion (the “Hearing”).

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 provides, among other things, that “all civil legal proceedings of any nature . . . involving . . . (b) any Receivership Property, wherever located; (c) the Receivership Defendants, including subsidiaries and partnerships; or (d) any of the Receivership Defendants’ past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity . . . are stayed in their entirety” *Id.* at ¶¶ 26, 28.

The CG Investors are equity investors in Urbin Coconut Grove Partners, LLC (“CG Partners”), which is a Receivership Company. Four subsidiaries of CG Partners owned five parcels of real property on Commodore Plaza in Coconut Grove, Florida (the “Commodore Properties”). In December 2022, before this receivership action commenced, the CG Investors filed an action in state court against Urbin, LLC, a Receivership Company which was the manager of CG Partners, asserting claims for breach of the CG Partners Operating Agreement and injunctive relief. The CG

Investors alleged that Urbin LLC violated the Operating Agreement by causing CG Partners to borrow \$16 Million from the Halpern Revocable Trust (the “Halpern Loan”). On October 5, 2023, the CG Investors filed Notices of Lis Pendens (“NLPs”), which were later recorded, against the Commodore Properties.

On December 26, 2023, the CG Investors filed a Motion for Leave to File their First Amended Complaint in the state court action. The proposed First Amended Complaint sought to add various defendants, including CG Partners, and additional claims for breach of fiduciary duty, rescission of mortgages against the Commodore Properties, and to quiet title against the lenders. While the Motion for Leave was pending, Urbin LLC filed a copy of the Receivership Order in the state court case, following which the state court entered an Order of Dismissal without prejudice, reserving jurisdiction to vacate the dismissal “should the issues in this [c]ase not get completely resolved through the receivership process and a request to vacate is filed.” ECF No. [244] at 4.

II. INSTANT MOTION

In the Motion, the CG Investors ask that the Court grant it relief from the stay provisions of the Receivership Order to allow the state court to “(a) extend the Commodore NLPs, (b) continue with adjudication of the claims presented in [state court], and adjudicate all claims that could be presented in connection with the [proposed] . . . First Amended Complaint . . .” ECF No. [244] at 10. The CG Investors argue that their interests are not adequately protected in this action because “the Receiver and the SEC are most interested in bringing this matter to a quick

conclusion; because the Receivership Estate lacks working capital, they are not inclined to take steps that maximize the Receivership Estate to benefit equity holders.” *Id.* at 8.

At the Hearing, the CG Investors further argued that the Receiver will not adequately protect their interests because the Receiver has recognized the validity of the Halpern Loan, which is inconsistent with the claims the CG Investors asserted in their proposed First Amended Complaint. The CG Investors also argued that their due process rights would be impaired if the Court declined to grant them relief to pursue the state court action because their state court claims are “complex” and, therefore, not suitable for adjudication through a summary claims process in this receivership action.

In her Response, the Receiver argues that relief from the stay is not necessary because the Receiver has agreed to “stipulate that (1) the Receiver will not assert that the CG Investors’ asserted lien position (if any) with regard to the Commodore Properties is impaired by the failure to seek an extension of the NLPs, in light of the Receivership Order staying any request for an extension; and (2) in the event the sale does not close, and the Receiver agrees to lift the stay generally with regard to the Commodore Properties, the CG Investors could then seek to extend the NLPs.” ECF No. [282] at 13. The Receiver also argues that this Court has exclusive jurisdiction over all Receivership Property, which includes the Commodore Properties, and in the event the Receiver sells the Commodore Properties through this action, the Court has exclusive jurisdiction over the proceeds and the disposition thereof. *Id.* at 14.

Further, the Receiver contends that claims against Receivership Properties, such as those alleged in the CG Investors' proposed First Amended Complaint, are the very type of claims that are appropriately resolved through the receivership process. Finally, with respect to the CG Investor's due process argument, the Receiver asserts that a summary proceeding is sufficient to resolve the CG Investors' claims and, in any event, the Court has not yet established the parameters of the claims adjudication process.

III. 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 includes the authority to issue a variety of ancillary relief to protect the receivership, and the scope of possible relief is not limited to parties before the court. *See Ritchie Capital Mgmt., L.L.C. v. Jeffries*, 653 F.3d 755, 762 (8th Cir. 2011) (citing *SEC v. Wencke*, 622 F.2d 1363, 1369–71 (9th Cir. 1980)). "Permissible ancillary relief includes issuance of orders imposing blanket stays of litigation, in order to give the receiver 'a chance to do the important job of marshaling and untangling a company's assets without being forced into court by every investor or claimant.'" *Id.* (citing *United States v. Acorn Tech. Fund, LP*, 429 F.3d 438, 443 (3d Cir. 2005)). The goal in a securities-fraud receivership action is "the fair distribution of the liquidated assets." *Id.* (quoting *SEC v. Wealth Mgmt. LLC*, 628 F.3d 323, 334 (7th Cir. 2010)).

The CG Investors' argument that relief from the stay is necessary to protect

their interests is not well taken. The stated basis in the Motion is that stay relief is required to prevent the Commodore NLPs from expiring. ECF No. [244] at 9. However, the Receiver has agreed that it will not assert that “the CG Investors’ asserted lien position (if any) with regard to the Commodore Properties is impaired by the failure to seek an extension of the NLPs” and, if a sale of the Commodore Properties is not consummated, the Receiver agrees “to lift the stay generally with regard to the Commodore Properties [so] the CG Investors could then seek to extend the NLPs.” ECF NO. [282] at 13.

The CG Investors’ new argument, that due process requires that the stay be lifted so they can challenge the validity of the Halpern Loan in state court, is similarly unpersuasive. As an initial matter, the CG Investors raised this argument for the first time at the Hearing. Further, the CG Investors can assert their alleged priority vis-à-vis the Halpern Trust during the court-approved claims process, if and when the Commodore Properties are sold and the proceeds distributed.

The CG Investors’ assertion that a summary claims process would deprive them of due process is premature. As the Eleventh Circuit explained, “[i]n determining relief in a receivership case, the district court may use so-called ‘summary proceedings,’ which promote judicial efficiency, so long as the procedure provides claimants with due process.” *S.E.C. v. Terry*, 833 F. App’x 229, 232 (11th Cir. 2020). Due process requires notice and an opportunity to be heard, and “[t]he process that is due varies according to the nature of the right and to the type of proceedings.” *Elliott*, 953 F.2d at 1566. “[A]t minimum summary proceedings must

provide [claimants] with necessary information, a meaningful opportunity to argue the facts and their claims and defenses, and an adjudication of their claims and defenses.” *Terry*, 833 F. App’x at 233. Further, courts look “at the actual substance, not the name or form, of the procedure to see if the claimants’ interests were adequately safeguarded.” *Elliott*, 953 F.2d at 1567.

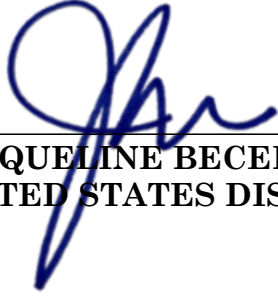
The Court has not yet determined the parameters of the claims process in connection with the Commodore Properties, which will take place following briefing and, if the Court deems necessary, oral argument. At that time, the CG Investors can argue that a more fulsome claims process is warranted. Further, the Court has already advised the CG Investors that it will be heard in this proceeding despite the absence of formal intervention, which the Receiver does not oppose. ECF No. [282] at 11. In short, at this stage of the proceedings, before the Court has established the contours of the claims process, the CG Investors cannot show that adjudication of their claims through this action would be inadequate to protect their due process rights.

It is well established that “[t]he government’s and parties’ interests in judicial efficiency underlie the use of a single receivership proceeding.” *Elliott*, 953 F.2d at 1566. To grant the CG Investors stay relief would result in multiple forums adjudicating claims that significantly impact the receivership, and undermine the uniformity and streamlined process that are hallmarks of receivership actions. The CG Investors have not demonstrated that departure from these principles is appropriate under the circumstances.

IV. CONCLUSION

For the foregoing reasons and those articulated at the Hearing which are incorporated herein, it is **ORDERED AND ADJUDGED** that the CG Investors' Motion for Relief From Stay of Ancillary Litigation and/or for Partial Vacation, Modification, or Clarification of Order Appointing Receiver and, if Necessary, to Intervene, ECF No. [244], is **DENIED**.

DONE AND ORDERED in Miami, Florida this 12th day of June, 2025.



JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE