UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:23-CV-24903-JB

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

RISHI KAPOOR, et al.

Defendants,
_____/

AMENDED MOTION OF COMMODORE CENTRE CONDOMINIUM ASSOCIATION, INC. TO COMPEL THE RECEIVER TO PAY DELINQUENT CONDOMINIUM MAINTENANCE ASSESSMENTS DUE TO THE ASSOCIATION, FOR LIMITED RELIEF FROM THE RECEIVERSHIP ORDER AND FOR RELATED RELIEF

Commodore Centre Condominium Association, Inc. (the "Association"), by and through undersigned counsel, respectfully requests the Court enter an order that directs the Receiver to pay all delinquent maintenance assessments due to the Association from the more than $2 million in unencumbered cash that the Receiver currently holds. The Association additionally requests leave from the Court's Receivership Order to file liens for all unpaid assessments and further requests the Court enter and order that finds that the Association is not barred from bringing suit against any third parties who are liable under Florida law for unpaid maintenance, including any buyer of the property. As grounds in support thereof the Association states as follows:

Introduction

The Association is the condominium association for the property located at 3162 Commodore Plaza, Coconut Grove, Florida (the "Property"). The Property consists of 48 units; receivership entity Urbin Coconut Grove Partners, LLC ("Urbin") currently owns 29 of the units. Urbin began a renovation of its units at the Property that among other things would have increased

the number of units to 63, but its contractor stopped working on the project in July of 2023 and walked off the job. When the contractor walked off the job it failed to properly secure the building; the site was left open, unsecured, and grossly exposed to the elements, with only tarps, plywood, and framing utilized in a feeble attempt to secure the building despite the risks posed by weather exposure in South Florida – an area that is well-known to receive substantial rainfall in the summer which inevitably finds its way into any possible opening. The Receiver acknowledged the condition of the Property in her original Motion to Approve Sale of Commodore Properties Free and Clear of Liens, Encumbrances and Interests (the "First Sale Motion") (ECF 238).

Unsurprisingly, the results have been disastrous. Two years plus of summer rains have poured into the building causing substantial damage. The remaining members of the Association have done their best to mitigate the damages; however, Urbin also stopped paying its maintenance assessments to the Association prior to this action commencing, leaving the Association with struggling finances. The Receiver has exacerbated this problem as she likewise has not paid maintenance to the Association since her appointment despite acknowledging having over $2 million in unencumbered cash on hand – and has even been renting out at least one unit and collecting rental income while not paying the Association a cent. And while the Association was hopeful the Receiver's proposed sale would be approved and close, almost a year has passed since the Receiver filed the Sale Motion. Since that time the buyer has terminated the contract and the Receiver has indicated that she will proceed with the back-up bidder, but it is still not clear if and when the sale will either be approved or close.

Notwithstanding the difficult situation the Association has had to endure, the Association has been able to perform many of its obligations to all of the members of the Association, including Urbin. These obligations have included maintaining insurance on the building, paying utilities, and

other matters that benefitted all Association members, including Urbin. Despite providing these benefits, the Receiver has not paid anything to the Association as required under the Association's declarations and Chapter 718, Florida Statutes.

At this juncture the Association has no choice but to seek relief from the Court and attempt to recover the nearly $650,000.00 in unpaid maintenance assessments owed to the Association as of the end of August, of which over $470,000.00 has accrued since the filing of this case. Counsel for the Association has spoken with counsel for the Receiver and understands that the Receiver, despite having over $2 million in unencumbered cash as represented in the last status report paying anything to the Association and further represented that the Association will likely receive nothing from the sale. Had the sale closed months ago the Association may have been able to absorb a far less significant loss. But the delays in the sale have left the Association in the position where it has no choice but to seek the requested relief. The Association therefore requests the Court enter an order compelling the Receiver to pay all maintenance and other assessments that have accrued since the filing of this case, as the Association has provided a benefit to the Receiver and the receivership by maintaining insurance and paying the utilities and other expenses for the building. The Association further requests the Court grant it leave from the Receivership Order so that the Association may record claims of lien against the various units in order to confirm the Association's first priority among lienholders subsequent to any first mortgage. Finally, the Association requests the Court enter an order finding that any sale order and subsequent attachment of liens to sale proceeds does not bar the Association from pursuing its *in personam* rights against any subsequent purchaser of Urbin's units in the Property as this Court, respectfully, does not have the authority, equitable or otherwise, to bar the Association from asserting independent *in personam* claims against subsequent purchasers of the Urbin units that the Florida Legislature

provided to associations in Chapter 718, Florida Statutes. The foregoing requests will all be addressed below.

Procedural Background and Important Dates

1. The Court is certainly well versed in the history of this case. The Association will therefore only refer to dates and occurrences that are relevant to the instant Motion.

2. On December 27, 2023, the Securities and Exchange Commission ("SEC") initiated this action and also filed an Emergency *Ex Parte* Motion for Asset Freeze and Other Relief [DE 6] under seal commencing this proceeding against Rishi Kapoor and the Receivership Companies, including Urbin.

3. On January 12, 2024, the Court entered an Order (DE 28) ("Receivership Order") appointing Bernice Lee (the "Receiver") as Receiver over the Receivership Companies.

4. In addition to appointing the Receiver, the Receivership Order contains broad provisions enjoining anyone with notice of the Receivership Order from undertaking certain actions. See Receivership Order, Paragraphs 23-28. These provisions arguably prohibit the Association from recording claims of lien or taking any action against the Receiver, Urbin and/or Urbin's units in the Property.

5. With regard to the Association, the developer, Dutch Union Corporation, recorded the Association's original Declarations on June 15, 1986 at Plat Book Number 12761, Page Number 2219 of the Official Records in and for Miami-Dade County, Florida (the "Declaration"). In the interest of brevity the Association has not included a copy of the Declarations with this Motion but can provide them to interested parties upon request. The Association currently consists of 48 units.

6. Upon information and belief Urbin began purchasing units in the Property in 2022. As noted above Urbin owned 29 units when the SEC filed this case.

7. Urbin ceased paying maintenance and other assessments to the Association in March of 2023. Attached hereto as Exhibit "1" is the report of unpaid maintenance and other assessments that have not been paid with regard to the 29 Urbin units. As of August 29, 2025 to total owed to the Association was $651,827.20.

8. As can be seen from Exhibit "1" the Receiver has likewise not paid any amounts due to the Association since the filing of this case and her subsequent appointment. The amounts that have accrued since the appointment of the Receiver total $470,755.67.

9. While Urbin and the Receiver did not pay, the other members of the Association paid their maintenance and assessments. Of course, with the substantial reduction in payments the Association had to either increase maintenance and assessments to other members or find ways to cut costs. Nonetheless, the Association was able to maintain insurance on the building, pay all utilities on the building, see that repairs were performed given the damage to the Property as described below, pay property taxes and other operating expenses, and generally take care of expenses that benefitted all units, including the Urbin units.

10. Attached hereto as Exhibit "2" are the expenditures the Association has paid since the appointment of the Receiver. The expenditures total $341,195.20.

11. The foregoing does not even begin to touch the ongoing damage to the Property that has occurred as a result of Urbin's actions. Urbin had begun a renovation project to its units on the Property. However, when Urbin's contractor walked off the job – presumably because Urbin stopped paying the contractor – the contractor failed to properly secure the Property from the elements. The only actions the contractor took were to place tarps, plywood, and framing over the

exposed openings in the building. These efforts were woefully inadequate to keep out the constant South Florida rains, which have caused substantial damage to the Property and raised prospects for mold and other significant structural issues on an ongoing basis not just to Urbin's units but to the other units in the Property.

12. Because of the damage the halted renovation caused to the Property, the Association was forced to pass a special assessment for $111,550.00 for emergency repairs. Moreover, the fire inspector recently informed the Association that the renovation also damaged the fire sprinkler system, fire pump and fire alarm. The Association has obtained initial estimates for repairs due to the damage Urbin caused which have come in at more than $100,000.00.

13. The Association also obtained an estimate of approximately $250,000.00 to mitigate and shore up the Property in order to attempt to prevent further damage. It is unknown if the Receiver ever investigated mitigating the ongoing damages to the Property.

14. The Association has also obtained estimated for repairs to the building once the above mitigation matters are completed. These estimates total more than $200,000.00. The Association is thus looking at more than $600,000.00 in emergency repairs, repairs to the fire suppression system, mitigation and prevention of further damage and repairs to damage all as the result of Urbin's actions.

15. As noted above, the Receiver filed the First Sale Motion on September 24, 2024 (ECF 238). Apparently that sale has now gone by the wayside, as on September 30, 2025 the Receiver filed the Receiver's Motion to Approve Back-Up Contract for Sale of Commodore Properties Free and Clear of Liens, Claims and Encumbrances (the "Back-Up Sale Motion) (ECF 460) seeking to approve the back-up bidder. The Receiver also noted the same in her most recent Status Report (ECF 468).

16. The Association wishes to make it clear that it does not oppose the sale. However, the delays in obtaining final approval have left the Association in the unenviable position of now having to seek the relief from the Court that the Association seeks herein. The delays in the closing of the sale – whatever their cause – have prejudiced the Association and its other members who have all paid their respective maintenance and assessments, including special assessments that the Association was forced to pass because of the ongoing damage to the Property that Urbin caused, notwithstanding the failure of Urbin and then the Receiver to do the same. Meanwhile, the receivership estate has received the benefit of insurance on the Property and the payment of utilities to which it has not contributed even while the Receiver has rented out at least one of the Urbin units.

17. By way of this Motion the Association seeks to remedy these wrongs. Specifically, the Association seeks an order compelling the Receiver to pay all post-filing maintenance and assessments as an administrative expense of the receivership. The receivership estate has received significant benefits from the provision of insurance and payment of utilities on the Property that the Receiver should be required to pay.

18. Second, the Association seeks leave to record claims of lien on each of the Urbin units in order to confirm the Association's position as the first lienholder behind only any properly recorded first mortgage. Florida law provides that any claim of lien relates back to the recording of the Declarations with the exception of a first mortgage. While the Receiver has represented that there may not be sufficient funds to pay lienholders, and while the Back-Up Sale Motion proposed to sell the Property subject to the first mortgage, in a subsequent foreclosure proceeding a potential sale could result in payment to the Association to the extent there are any funds available after payment of the first mortgage.

19. Finally, the Association requests the Court specifically find that nothing in any sale order prohibits or bars the Association from exercising its rights pursuant to Chapter 718, Florida Statutes by seeking an *in personam* judgment against any subsequent owner of Urbin's units. As explained below, the Florida Legislature specifically provided that subsequent owners are jointly and severally liable with prior owners of condominium units, and this Court, respectfully, does not have the authority to bar the Association from bringing these third-party *in personam* claims.

MEMORANDUM OF LAW

I. Receiverships Generally.

"'The district court has broad powers and wide discretion to determine relief in an equity receivership.' As such, '[a]ny action by a trial court in supervising an equity receivership is committed to his sound discretion and will not be disturbed unless there is a clear showing of abuse.'" *SEC v. Lauer*, 2001 U.S. Dist. LEXIS 160383 at *7 (S.D. Fla. 2011) (citations omitted).

II. The Maintenance and Assessments Due to the Association are Administrative Expenses of the Receivership.

As set forth above, since the SEC's filing of this case and the Receiver's appointment the maintenance fees and assessments due to the Association as of August 29, 2025 total $470,755.67. Despite the failure of the Receiver to remit any of the foregoing to the Association, the Association has spent $341,195.20 on matters that benefit the entire Property since the Receiver's appointment. The Association has also obtained a quote of $250,000.00 to properly shore up the Property from further damage from the elements and estimates of over $100,000.00 to fix the fire suppression system. The payment of the maintenance and assessments to the Association is designed to pay these amounts; the Receiver's failure to do so has left the Association in the position where it has scrambled to pay insurance, utilities and other amounts for which the whole Property, including the Urbin properties, benefitted. The Receiver should therefore be directed to pay the back

assessments from the receivership's unencumbered funds as the receivership has benefitted significantly from the Association's payment of the foregoing amounts.

The Association has not located a case wherein a receiver was directed to pay a condominium or homeowner association maintenance or assessments as an expense of administration of the receivership. However, several bankruptcy courts have directed that maintenance and assessments that accrue after the filing of a bankruptcy case are properly payable as an administrative expense. Preliminarily, the Eleventh Circuit has recognized that district courts may properly refer to bankruptcy law when passing on questions related to receiverships due to their similarity. *SEC v. Wells Fargo Bank, N.A.*, 848 F.3d 1339, 1344 n.3 (11th Cir. 2017) (referring to bankruptcy law to determine question of treatment of secured claim and stating "A number of other circuits have also looked to bankruptcy law to aid in addressing issues raised in the receivership context." (citations omitted)).

In *In re Guillebeaux*, 361 B.R. 87 (Bankr. M.D.N.C. 2007) the court considered an application wherein the homeowners' association sought to recover assessments that had accrued both before and after the filing of bankruptcy. The court found that all of the amounts that had accrued post-bankruptcy constituted an administrative expense and directed that they be paid. *Guillebeaux*, 361 B.R. at 92 ("Courts have previously held that homeowners' association assessments are actual and necessary and are thus entitled to priority as an administrative expense." (citations omitted)). The *Guillebeaux* court noted that there was a split of authority on the issue and that certain courts had determined that only the amounts that could be shown to have actually benefitted the property in question, as opposed to the entire association, were properly recoverable as administrative expenses, but nonetheless decided that the entire amount of the postpetition maintenance and assessments were chargeable as an administrative expense. *Guillebeaux* is not

the only bankruptcy court that has awarded 100% of postpetition association maintenance and other assessments. *See In re Trimurti Investments, Inc.*, 2012 U.S. Bankr. LEXIS 3407 (Bankr. M.D. Fla. 2012) (awarding association entire amount of postpetition assessments owed to association).

As referenced above, the *Guillebeaux* court noted that courts had reached different conclusions with regard to the award of association maintenance and assessments as administrative expenses. In *In re Sports Shinko (Florida) Co.*, 333 B.R. 483 (Bankr. M.D. Fla. 2005) the association sought over $260,000.00 in postpetition maintenance and assessments. The court held that the association was only entitled to amounts that directly benefitted the property of the bankruptcy estate and engaged in a full analysis of the association's request. The court first addressed insurance and noted that "Insuring an asset of the estate against loss or liability is a necessary business expense." *Id.* at 495 (citation omitted). The court then allowed as an expense the association's insurance cost prorated to the percentage of units that the debtor owned. *Id.* at 495 (awarding 52% of the insurance premiums based on debtor's number of units in the association). The court continued its analysis as to each and every expense that the association sought – roof repairs, lawn care, utilities, pet control, supplies, taxes and other expenses and determined which were appropriately charged to the debtor's estate and for how much, *Id.* at 495-500, and awarded the association a final amount.

While the Association believes that the approach set forth in *Guillebeaux* is the better application of the law, should the Court wish to apply the reasoning of *Sports Shinko* the Association would assert that the receivership is responsible for 60.4% of the amounts set forth on Exhibit "2" (less the attorney's fees paid to the undersigned to date). That amount totals $206,138.77. With the exception of fees to the undersigned, the Association asserts that all of the

amounts on Exhibit "2" benefitted the entire Property. The Receiver should therefore pay, at a minimum, the *pro rata* share of the expenses the Association has paid. Again, it is the Association's position that all the unpaid post-receivership assessments should be paid, but if the Court were to consider the alternative case law and believe it to be better reasoned, the Association would till be entitled to the above amount.

In addition, the Receiver should be required to pay $250,000.00 so that the Association can move forward with the estimate for shoring up the Property and pay the approximately $100,000.00 for the repairs to the fire suppression system. Given that it was Urbin that caused the need for the building to be secured and that Urbin damaged the fire suppression system, it is only appropriate that the Receiver pay for the Property to be secured and for the fire suppression system to be repaired. All of the foregoing are actual, necessary expenses of the receivership that the Receiver should be directed to pay forthwith.

III. The Unpaid Maintenance and Assessments Constitute a Lien on Urbin's Units Pursuant to Florida Law That Take Priority Over other Lienholders Other Than Any First Mortgage Holder.

Fla. Stat. § 718.116(5)(a) states "The association has a lien on each condominium parcel to secure the payment of assessments. Except as otherwise provided in subsection (1) and as set forth below, the lien is effective from and shall relate back to the recording of the original declaration of condominium . . . However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the public records of the county in which the condominium parcel is located." Florida courts have held that the recording of a claim of lien is not an absolute prerequisite to the enforcement of an association's lien. *Calendar v. Stonebrdge Gardens Section III Condo. Ass'n*, 234 So. 3d 18, 19 (Fla. 4th DCA 2016) ("Consequently, under section 718.116, where a declaration of condominium is recorded, such as in the instant case, recording a claim of

lien is not an absolute prerequisite to the enforcement of a lien for unpaid assessments." (citations omitted)). Nonetheless, the Association wishes for relief from the Freeze Order so that it can perfect its claim of lien and, in the event that there are proceeds available from any future sale, be paid according to its statutory priority as set forth in Florida law.

IV. The Association Has the Right Under Florida Law to Seek *In Personam* Recovery From the Current Owner of the Units and Any Subsequent Owner.

In addition to its other rights to recovery, Florida law provides the Association with the right to seek recovery of unpaid maintenance and assessments on an *in personam* basis against both the current owner and the subsequent owner. Specifically, Fla. Stat. § 718.116(1)(a) reads in pertinent part

> A unit owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while he or she is the unit owner. Additionally, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner. (Emphasis added.)

Florida courts have interpreted this statute to impose *in personam* liability on a subsequent owner when the prior owner failed to pay all assessments. *See Coastal Creek Condo. Ass'n, Inc. v. Fla Trust Services, Inc.*, 275 So. 3d 836 (Fla. 1st DCA 2019); *Aventura Mgmt, LLC v. Spaggia Ocean Condo. Ass'n, Inc.*, 149 So. 3d 690 (Fla. 3rd DCA 2014). The Association therefore has the right to pursue any maintenance and assessments that the Receiver fails to pay or that are not paid out of the proceeds of the sale from the purchaser at the sale.

The Association's right to pursue an *in personam* judgment against a third party – in this case the buyer of the Property – is unique to the Association as it is a creature of state law, specifically the provisions of Section 718.116(a)(1). Accordingly, the Receiver has no right to pursue any such claim because it does not belong to the Receiver or the receivership. Thus, to the

extent the Receiver seeks to prohibit the Association from pursuing this *in personam* right to recover from the buyer, the Court, respectfully, lacks the authority to enter any such order.

While the Eleventh Circuit has not specifically addressed the scope of a receiver's authority to settle claims and a district court's authority to enter orders approving settlements of third-party claims, two courts of appeal have specifically held that a district court lacks the authority to enter orders that bar third parties from bringing claims against non-receivership persons or entities that are not in receivership. In *Digital Media Solutions, LLC v. South Univ. of Ohio, LLC*, 59 F. 4th 772 (6th Cir. 2023) the receiver and several non-receivership parties entered into a settlement that was contingent on the district court's issuance of a "bar order" that would permanently bar non-settling third parties from pursuing personal liability claims against non-debtors who were not in the receivership. The district court approved the settlement and the bar order, which the affected creditors appealed. The Sixth Circuit engaged in a lengthy review of the history of receiverships and equity jurisprudence as applied to receiverships, as well as the jurisdiction of district courts in receivership cases, third party and derivative standing and related doctrines that might provide the receiver with authority to settle third party claims and, more importantly, provide the court with authority to approve settlements and enter bar orders and related relief. After engaging in this analysis the Sixth Circuit ultimately concluded that a district court in a receivership action lacks the authority to both settle and thus bar third party claims against non-receivership entities.

The *Digital Media Solutions* court first addressed the receiver's standing to settle third party claims and found that claims that receives lack authority to settle independent third-party claims:

> [C]reditors of, or investors in, a corporation that allegedly engaged in a fraud often sue third parties or corporate insiders for injuries to the creditors or investors. Some investors may, for example, sue brokers who made false statements to them to convince them to invest. This type of suit seeks to recover for personal injuries to

> the investors based on their individual causes of action. The investors' personal ownership of these claims again has relevance for equity-receivership proceedings. This personal ownership means that the receiver lacks the authority to litigate them under the traditional principle of equity that bars a receiver from pursuing claims owned by others. . . . Because a receiver lacks the authority to litigate the claims, the receiver "equally" lacks the authority "to settle them" without the consent of the claims' owners.

Digital Media Solutions, 59 F. 4th at 783 (citations omitted). The court then concluded that because the objecting creditors in *Digital Media Solutions* were asserting claims independent to them the receiver had no authority to settle them. *Id.* at 785 ("All told, the Art Students seek to recover on individual claims for personal injuries. These claims belong to them, not Dream Center. So they, not the Receiver, had the right to pursue them.").

With regard to the receiver's attempt to obtain a bar order over the third-party claims, the *Digital Media Solutions* court first stated that the receiver's argument was based on the fact that the claims allegedly interfered with receivership property. *Id.* at 785-786, which theory the court squarely rejected. *Id.* ("The Receiver alleges that the court could issue the Bar Order to stop this interference. We disagree because the order conflicts with traditional principles of equity."). The court first noted that receivership courts generally lacked the power to enjoin *in personam* suits against receivership entities. Given this lack of authority to enjoin suits against receivership entities, the court concluded that there could not be authority to enjoin *in personam* suits against non-receivership entities:

> [A] receivership court with *quasi-in rem* jurisdiction over a debtor and the debtor's assets traditionally lacked the power to enjoin *in personam* suits. An in personam judgment against defendants would determine only their "personal liability" to a plaintiff and would not "involve the possession or control" of the debtor's property. The Supreme Court thus held that a "court sitting in equity" lacked the power to enjoin in personam claims even against a receivership debtor. And here, the Art Students did not file an in rem action asserting claims to the policy proceeds. They filed an in personam action asserting claims against the directors and officers and the Foundation. If a court lacked the power to enjoin in personam claims against a

> *receivership debtor*, it would make no sense to allow a court to enjoin in personam claims against *non-receivership entities*.
>
> For another thing, a receivership court traditionally could issue injunctions to protect only the debtor assets that its creditors could execute upon. The court thus lacked any equitable power to "protect assets outside the receivership." This conclusion appears to have been an obvious one under traditional equity principles. We could find very few cases involving a receivership court attempting to protect non-debtor assets, and the cases with these facts summarily rejected this idea. . . . The Bar Order here suffers from the same flaw . . . it protected not just assets in the Dream Center receivership (the insurance proceeds) but also assets that fell wholly outside the receivership (all other property possessed by the directors and officers and the Foundation).

Id. at 786-787 (quotations and italics in original) (citations omitted). In the face of the foregoing, the *Digital Media Solutions* court concluded that the district court's equitable powers in receivership cases did not extend so far as to bar third parties from asserting independent *in personam* claims against other third parties, and thus reversed the district court's approval of the settlement and bar order, stating "As the law stands today, however, traditional principles of equity still govern. And none of the Receiver's arguments permit 'that which the law forbids.'" *Id.* at 790 (citation omitted).[1]

Digital Media Solutions is not the only appellate decision that held that district courts overseeing receivership cases lack the authority to enjoin and/or settle third party claims that do not belong to the receivership. In *SEC v. Stanford Intl. Bank, Ltd.*, 927 F.3d 830 (5th Cir. 2019) the

[1] The *Digital Media Solutions* court engaged in a lengthy discussion of the differences between a district court's traditional receivership authority and the authority of bankruptcy courts to enter bar orders and approve nonconsensual releases. *See Id.* at 787-789. The Association has not included any discussion of this section of the opinion because the Supreme Court's subsequent decision in *Harrington v. Purdue Pharma, L.P.,* 603 U.S. 204, 144 S. Ct. 2071, 219 L. Ed. 2d 721 (2024) held that the Bankruptcy Code does not grant bankruptcy courts the authority to enter bar orders and nonconsensual releases. If anything, the Supreme Court's decision in *Purdue Pharma* supports the Association's position that this Court, respectfully, does not have the authority to enter bar orders or release third party *in personam* claims such as the Association's right to collect from subsequent owners pursuant to Fla. Stat. § 718.116(a)(1).

district court approved a settlement that contained releases and bar orders covering a myriad of claims. Three different sets of affected parties appealed and asserted that the district court had erred in enjoining the prosecution of certain claims against third parties. The Fifth Circuit addressed each of the three different sets of claims and agreed with two of the groups of the appellants that the court's entry of a bar order enjoining certain claims exceeded the district court's authority.

With regard to the first group of appellants, who were co-insureds with certain receivership entities under insurance policies but had asserted extra-contractual claims against the insurance companies for bad faith breach of duty and statutory claims under the Texas Insurance Code, the Fifth Circuit found that the district court lacked the authority to permanently enjoin the appellants from pursuing these claims, which if successful would provide for recovery against the insurance companies generally and not from the proceeds of any policy. In finding that the district court exceeded its authority the *Stanford Intl. Bank* court stated

> By ignoring the distinction between Appellants' contractual and extracontractual claims against Underwriters, the district court erred legally and abused its discretion in approving the bar orders. These claims, including common law bad faith breach of duty and claims under the Texas Insurance Code, lie directly against the Underwriters and do not involve proceeds from the insurance policies or other receivership assets. These damage claims against the Underwriters exist independently; they do not arise from derivative liability nor do they seek contribution or indemnity from the estate . . . the Receiver lacked standing to settle independent, nonderivative, non-contractual claims of these Appellants against the Underwriters . . . In sum, although we sympathize with the impetus to settle difficult and atomized issues of insurance coverage rather than dissipate receivership assets in litigation, the settlement and bar orders violated fundamental limits on the authority of the court and Receiver . . . The court could not authorize the Receiver and Underwriters to compromise their differences while extinguishing the Appellants' extracontractual claims against Underwriters. Equity must follow the law, which here constrains the court's and Receiver's authority to protecting the assets of the receivership and claims directly affecting those assets.

Stanford Intl. Bank, 927 F.3d at 847-848 (citations and footnotes omitted).[2]

The *Digital Media Solutions* and *Stanford Intl. Bank* cases both confirm that this Court, respectfully, cannot bar the Association from asserting its statutory claim under Section 718.116(a)(1) against the ultimate purchaser of the Urbin units. The claims arise from state law, are not derivative of any rights of the Receiver or any receivership entity and do not implicate receivership property. The claims do not even arise until the sale of the Urbin units is completed, title is transferred to the buyer and the buyer becomes the titleholder to the units, thus further demonstrating that the statutory rights the Florida Legislature created have nothing to do with receivership property. While the Court may have the ability to direct that the Urbin units be sold free and clear of liens with the liens to attach to the proceeds, the Court respectfully does not have the authority to bar the Association's *in personam* right to collect from the subsequent buyer pursuant to Section 18.116(a)(1). The Association thus requests the Court, to the extent the Receiver requests the entry of an order barring any claim against the buyer of the Urbin units, find that the Association may pursue its *in personam* rights against the buyer to the extent the Association is not paid in full from the proceeds of the sale of from the receivership.

RESERVATION OF RIGHTS

The Association reserves it rights to seek to recover all amounts due for any pre-receivership unpaid assessments and other fees through any claims process the Court ultimately

[2] The Fifth Circuit also found that the district court erred in barring the second appellant's claims against the insurance companies for the same reasons, although the facts surrounding the second appellant were slightly different. Nonetheless, the Fifth Circuit found that the district court could not bar the second appellant's extracontractual claims. *See Id.* at 849 ("To the extent that Haymon's claims mirror those of Alvarado and McDaniel, the same results follow . . . the court could not bar his extracontractual claims against the Underwriters.")

approves in this case and/or to recover any amounts due to the Association from anyone liable for same.

CONCLUSION

The Association was hopeful that the sale of Urbin's units would have been concluded by now and that a new owner would be paying the maintenance and assessments due on Urbin's units. Unfortunately, the delays in the sale process leave the Association with no choice but to protect its rights and seek relief from this Court. The Association therefore requests this Court direct the Receiver to pay the Association all maintenance and assessments that have accrued since the appointment of the Receiver as an expense of administration, or alternatively, pay those amounts to Court finds are properly awarded as expenses of administration. The Association requests relief from the Freeze Order to record its claims of lien in order to confirm the Association's first lien position behind any properly recorded first mortgage. Finally, the Association requests the Court confirm in any order approving the sale of Urbin's units in the Property that nothing in said order prohibits the Association from pursuing its *in personam* rights against the ultimate buyer to recover any remaining unpaid amounts from Urbin and/or the Receiver. All of the foregoing is relief that the Association is entitled to and the Association requests it be granted forthwith.

WHEREFORE, for the reasons set forth herein, the Association respectfully requests the Court grant this Motion, direct the Receiver to pay all unpaid maintenance and assessments as an expense of administration of the receivership, or alternatively direct the Receiver to pay any amount the Court awards as an expense of administration, grant the Association leave from the Freeze Order to record claims of lien, include in any order approving the sale of Urbin's units that the Association is not prohibited from pursuing its *in personam* rights against the ultimate buyer

to recover any remaining unpaid amounts from Urbin and/or the Receiver as well as grant the Association any further relief the Court deems appropriate under the circumstances.

Dated this 17th day of November, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been furnished via the Court's email portal to David Rosendorf, Esq., dlr@kttlaw.com and all other parties entitled to receive notice via the Court's CM/ECF noticing service on this 17th day of November, 2025.

/s/ Robert F. Reynolds
ROBERT F. REYNOLDS

EXHIBIT “1”

A/R Aging Detail Report

Commodore Centre Condo Assoc

As of August 29, 2025

DATE	TRANSACTION TYPE	NUM	CUSTOMER FULL NAME	DUE DATE	AMOUNT	OPEN BALANCE
91 or more days past due						
03/01/2023	Invoice	R2020-790	Urbin Commodore Residential	03/11/2023	12,684.99	12,684.99
05/01/2023	Invoice	R2020-866	Urbin Commodore Residential	05/01/2023	7,167.54	1,695.91
05/01/2023	Invoice	R2020-876	Urbin Commodore Residential	05/01/2023	15,037.93	15,037.93
05/01/2023	Invoice	R2020-875	Urbin Commodore Residential	05/11/2023	12,684.99	12,684.99
06/01/2023	Invoice	R2020-889	Urbin Commodore Residential	06/01/2023	7,167.54	7,167.54
06/01/2023	Invoice	R2020-901	Urbin Commodore Residential	06/11/2023	12,684.99	12,684.99
07/01/2023	Invoice	R2020-912	Urbin Commodore Residential	07/01/2023	7,167.54	7,167.54
07/01/2023	Invoice	R2020-919	Urbin Commodore Residential	07/11/2023	12,684.99	12,684.99
08/01/2023	Invoice	R2020-933	Urbin Commodore Residential	08/01/2023	7,167.54	7,167.54
08/01/2023	Invoice	R2020-937	Urbin Commodore Residential	08/11/2023	12,684.99	12,684.99
09/01/2023	Invoice	R2020-950	Urbin Commodore Residential	09/01/2023	7,167.54	7,167.54
09/01/2023	Invoice	R2020-955	Urbin Commodore Residential	09/11/2023	12,684.99	12,684.99
10/01/2023	Invoice	R2020-967	Urbin Commodore Residential	10/01/2023	7,167.54	7,167.54
10/01/2023	Invoice	R2020-973	Urbin Commodore Residential	10/11/2023	12,684.99	12,684.99
11/01/2023	Invoice	R2020-986	Urbin Commodore Residential	11/01/2023	7,167.54	7,167.54
11/01/2023	Invoice	R2020-991	Urbin Commodore Residential	11/11/2023	12,684.99	12,684.99
12/01/2023	Invoice	R2020-1004	Urbin Commodore Residential	12/01/2023	7,167.54	7,167.54
12/01/2023	Invoice	R2020-1009	Urbin Commodore Residential	12/11/2023	12,684.99	12,684.99
01/01/2024	Invoice	R2020-1024	Urbin Commodore Residential	01/01/2024	7,167.54	7,167.54
01/01/2024	Invoice	R2020-1027	Urbin Commodore Residential	01/11/2024	12,684.99	12,684.99
02/01/2024	Invoice	R2020-1042	Urbin Commodore Residential	02/01/2024	7,167.54	7,167.54
02/01/2024	Invoice	R2020-1045	Urbin Commodore Residential	02/11/2024	12,684.99	12,684.99
03/01/2024	Invoice	R2020-1060	Urbin Commodore Residential	03/01/2024	7,167.54	7,167.54
03/01/2024	Invoice	R2020-1063	Urbin Commodore Residential	03/11/2024	12,684.99	12,684.99
04/01/2024	Invoice	R2020-1078	Urbin Commodore Residential	04/01/2024	7,167.54	7,167.54
04/01/2024	Invoice	R2020-1081	Urbin Commodore Residential	04/11/2024	12,684.99	12,684.99
05/01/2024	Invoice	R2020-1091	Urbin Commodore Residential	05/01/2024	7,167.54	7,167.54
05/01/2024	Invoice	R2020-1099	Urbin Commodore Residential	05/11/2024	12,684.99	12,684.99
06/01/2024	Invoice	R2020-1109	Urbin Commodore Residential	06/01/2024	7,167.54	7,167.54
06/01/2024	Invoice	R2020-1117	Urbin Commodore Residential	06/11/2024	12,684.99	12,684.99
07/01/2024	Invoice	R2020-1127	Urbin Commodore Residential	07/01/2024	7,167.54	7,167.54
07/01/2024	Invoice	R2020-1135	Urbin Commodore Residential	07/11/2024	12,684.99	12,684.99
08/01/2024	Invoice	R2020-1145	Urbin Commodore Residential	08/01/2024	7,167.54	7,167.54
08/01/2024	Invoice	R2020-1153	Urbin Commodore Residential	08/11/2024	12,684.99	12,684.99
09/01/2024	Invoice	R2020-1163	Urbin Commodore Residential	09/01/2024	7,167.54	7,167.54
09/01/2024	Invoice	R2020-1171	Urbin Commodore Residential	09/11/2024	12,684.99	12,684.99
10/01/2024	Invoice	R2020-1181	Urbin Commodore Residential	10/01/2024	7,167.54	7,167.54
10/01/2024	Invoice	R2020-1189	Urbin Commodore Residential	10/01/2024	12,684.99	12,684.99
10/01/2024	Invoice	R2020-1190	Urbin Commodore Residential	10/11/2024	12,684.99	12,684.99
11/01/2024	Invoice	R2020-1201	Urbin Commodore Residential	11/01/2024	7,167.54	7,167.54
11/01/2024	Invoice	R2020-1209	Urbin Commodore Residential	11/11/2024	12,684.99	12,684.99
12/01/2024	Invoice	R2020-1219	Urbin Commodore Residential	12/01/2024	7,167.54	7,167.54
12/01/2024	Invoice	R2020-1227	Urbin Commodore Residential	12/11/2024	12,684.99	12,684.99
01/01/2025	Invoice	R2020-1237	Urbin Commodore Residential	01/01/2025	7,167.54	7,167.54
01/01/2025	Invoice	R2020-1245	Urbin Commodore Residential	01/11/2025	12,684.99	12,684.99
02/01/2025	Invoice	R2020-1255	Urbin Commodore Residential	02/01/2025	7,167.54	7,167.54
02/01/2025	Invoice	R2020-1263	Urbin Commodore Residential	02/11/2025	12,684.99	12,684.99
03/01/2025	Invoice	R2020-1273	Urbin Commodore Residential	03/01/2025	7,167.54	7,167.54
03/01/2025	Invoice	R2020-1281	Urbin Commodore Residential	03/11/2025	12,684.99	12,684.99
04/01/2025	Invoice	R2020-1291	Urbin Commodore Residential	04/01/2025	7,167.54	7,167.54

A/R Aging Detail Report

Commodore Centre Condo Assoc

As of August 29, 2025

DATE	TRANSACTION TYPE	NUM	CUSTOMER FULL NAME	DUE DATE	AMOUNT	OPEN BALANCE
04/01/2025	Invoice	R2020-1299	Urbin Commodore Residential	04/11/2025	12,684.99	12,684.99
04/29/2025	Invoice	R2020-1398	Urbin Commodore Residential	05/01/2025	61,020.08	61,020.08
05/01/2025	Invoice	R2020-1309	Urbin Commodore Residential	05/01/2025	7,167.54	7,167.54
05/01/2025	Invoice	R2020-1317	Urbin Commodore Residential	05/11/2025	12,684.99	12,684.99
Total for 91 or more days past due					**$597,741.24**	**$592,269.61**
61 - 90 days past due						
06/01/2025	Invoice	R2020-1335	Urbin Commodore Residential	06/01/2025	7,167.54	7,167.54
06/01/2025	Invoice	R2020-1343	Urbin Commodore Residential	06/11/2025	12,684.99	12,684.99
Total for 61 - 90 days past due					**$19,852.53**	**$19,852.53**
31 - 60 days past due						
07/01/2025	Invoice	R2020-1353	Urbin Commodore Residential	07/01/2025	7,167.54	7,167.54
07/01/2025	Invoice	R2020-1361	Urbin Commodore Residential	07/11/2025	12,684.99	12,684.99
Total for 31 - 60 days past due					**$19,852.53**	**$19,852.53**
1 - 30 days past due						
08/01/2025	Invoice	R2020-1371	Urbin Commodore Residential	08/01/2025	7,167.54	7,167.54
08/01/2025	Invoice	R2020-1379	Urbin Commodore Residential	08/11/2025	12,684.99	12,684.99
Total for 1 - 30 days past due					**$19,852.53**	**$19,852.53**
TOTAL					**$657,298.83**	**$651,827.20**

EXHIBIT “2”

Expenses by Vendor Summary

Commodore Centre Condo Assoc

January 12, 2024-October 10, 2025

VENDOR	TOTAL
	2,602.30
AGI International Inc.	299.60
Alain De Jesus Pacheco	3,039.25
amazon	42.80
A Plus Fire, LLC	6,079.00
AT&T	883.36
BioResponse Corp	12,332.90
City Fire Alarms Inc.	2,563.78
Continental Insurance Agency, Inc	25,253.44
Easy Maintenance Eng. Services	6,000.00
Eduardo Peinado Lopez	4,746.30
Essig Law, P.A.	812.50
FPL-16548	26,507.50
Fred Eagle Mechanical LLC	5,751.25
Glicerio M. Lopez	5,879.42
Global Elevator Sales & Service Inc	6,975.00
Home Depot	11.74
IPFS Corporation	13,263.45
John Bohorquez	14,562.11
Julio Sanchez	19.77
Kopelowitz Ostrow Ferguson Wiselberg Gilbert	8,000.00
Law Office of Robert F. Reynolds, P.A.	4,000.00
Mega Garage Door & Gate Service	6,132.50
Miami-Dade County Tax Collector	84.50
Miami-Dade Water & Sewer Dept.	40,433.99
Premier Fire Alarms	5,599.05
QuickBooks	4,695.00
SDI General Contractors Corp.	106,520.86
Selena Venizelos	1,516.75
Summit Fire and Security	2,518.78
Terminix Processing Center	1,501.72
Truist	156.90
VS Forensics, LLC	10,000.00
Waste Connections	12,409.68
TOTAL	**$341,195.20**