

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.

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**ORDER DENYING AMENDED MOTION OF COMMODORE CENTRE  
CONDOMINIUM ASSOCIATION, INC.'S MOTION TO COMPEL RECEIVER  
TO PAY DELINQUENT CONDOMINIUM MAINTENANCE ASSESSMENTS,**

**THIS CAUSE** came before the Court upon the 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 (the “Motion”). ECF No. [476]. The Receiver, Bernice C. Lee, filed a Response in opposition to the Motion, and the Association filed a Reply. ECF Nos. [469], [480], [475], [482]. Upon careful consideration of the parties’ submissions, the pertinent portions of the record, the relevant legal authorities, and for the reasons explained more fully below, the Motion is **DENIED**.

**I. BACKGROUND**

On December 27, 2023, the Securities and Exchange Commission 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* Compl., 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.

Urbin Coconut Grove Partners, LLC is a Receivership Company and the sole owner and manager of: (a) Urbin Commodore Residential SPE, LLC; (b) Urbin Commodore Residential II SPE, LLC; (c) Urbin Commodore SPE, LLC; and (d) Urbin Commodore Restaurant SPE, LLC (the “Commodore Companies”). As relevant to the instant Motion, the Commodore Companies own fee simple title to the condominium or retail units located at 3162 Commodore Plaza, Miami, Florida 33133 (the “Property”). The Property consists of 48 condominium units. ECF No. [476] at 1. Urbin Commodore Residential SPE, LLC owns eight (8) commercial condominium units and twenty-one (21) residential condominium units at the Property (together, the “Urbin Units”). ECF No. [469] at 2–3. According to the Receiver, the commercial condominium units include some which are in average condition and some which are in shell condition, and the residential units are gutted shells without wall partitions or interior improvements. *Id.* at 3. The Association is the condominium association

for the Property. ECF No. [476] at 1.

In its Motion, the Association asks the Court to order the Receiver to immediately pay outstanding maintenance fees and assessments allegedly due to the Association as “administrative expenses” of the receivership estate. ECF No. [476] at 8–11. The Association further requests that the Court grant it leave from the Receivership Order to record claims of lien against the Urbin Units for the unpaid maintenance fees and assessments. *Id.* at 11–12. Finally, the Association requests that the Court enter an order finding that a sale of the Property does not bar the Association from pursuing its *in personam* rights to seek recovery of unpaid maintenance fees and assessments from any subsequent purchaser of the Urbin Units. *Id.* at 12–17.

The Receiver opposes the Motion in its entirety. The Receiver argues that the Association’s claim for unpaid maintenance fees and assessments should be handled through the receivership claims process and is not entitled to administrative expense status. ECF Nos. [469] at 7–13, [480] at 2–4. The Receiver also disputes the amounts claimed by the Association as due and owing. ECF Nos. [469] at 11, [480] at 3–4. Further, the Receiver argues that relief from the Receivership Order to record claims of lien is not warranted because the Association did not file any objections to the Receiver’s Motion to Approve Back-Up Contract for Sale of the Commodore Properties, which sale will be free and clear of all liens other than those identified in the Back-Up Contract, including any that the Association might now record. ECF Nos. [469] at 13–15, [480] at 4. Finally, the Receiver contends that the Association’s

request for an order finding that a sale of the Property does not bar the Association from pursuing its *in personam* rights against a subsequent purchaser is inapposite because the pending Motion to Approve Back-Up Contract for Sale does not bar claims against non-receivership parties, and any such order would constitute an impermissible advisory opinion. ECF No. [469] at 17–19, [480] at 4–5.

In Reply, the Association argues that it would be inequitable to delay resolution of its request for payment until the receivership claims process because the Association continues to suffer increasing losses, the burden of which falls onto the remaining unit owners “who are forced to dig deeper and deeper into their pockets to cover the ongoing expenses that the Receiver refuses to pay.” ECF No. [475] at 4–5; *see also* ECF No. [482] at 2. With respect to its request for relief from the Receivership Order, the Association recognizes that the Court may approve sale of the Property free and clear of liens but “[n]onetheless, in the event the sale does not close for whatever reason, the Association wishes to record its claims of lien so that it has properly protected its lien status . . . .” *Id.* at 6; *see also* ECF No. [482] at 3. Finally, the Association asserts that its request for an order confirming that the Association can pursue *in personam* rights against any purchaser of the Urbin Units is proper because the Court lacks authority to “bar third party *in personam* claims that the Association holds against the subsequent owner that are not created until title to the property is transferred,” which rights are a creature of Florida statutory law. *Id.* at 7–9; *see also* ECF No. [482] at 3.

## 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). “That wide discretion extends to ‘[a] district court’s decision relating to the choice of distribution plan for the receivership”. *Sec. & Exch. Comm’n v. Pension Fund of America, L.C.*, 377 F. Appx. 957, 962-63 (11th Cir. 2010). The Association readily acknowledges that it is unable to locate any case where a court directed a receiver to immediately pay association maintenance fees or assessments as an expense of the receivership estate. Nonetheless, the Association argues that such immediate payment is necessary, and that the Association should not be required to engage in the claims process as other creditors are required to do.

The Court is not persuaded. Allowing the association to bypass the claims process and receive full payment would upend the claims process and, by giving preferential treatment to one creditor, would undermine “a primary purpose of equity receiverships” which “is to promote [the] orderly and efficient administration of the estate . . . for the benefit of [all] creditors.” *Sec. Exch. Comm’n v. Pinnacle Dev. Partners, LLC*, No. 06-cv-2431, 2008 WL 11336128, at \* 2 (N.D. Ga. Nov. 12, 2008) (citing *Sec. & Exch. Comm’n v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986)).

Although a receivership court may borrow concepts from bankruptcy law, the Court is not convinced that the use of the “administrative expense” concept from bankruptcy law is warranted here. Notably, neither party has cited legal authority applying the “administrative expense” bankruptcy concept in a receivership context.

Even if the Court were to apply the concept here, the Association readily acknowledges that there is a split of authority regarding whether association maintenance fees and assessments are properly classified as administrative expenses. ECF No. [476] at 9–10. Further, as the Receiver explains in its Response, there are factual disputes regarding the Association’s entitlement to and amount of the maintenance fees and assessments at issue. ECF No. [469] at 8, 11. Even where administrative expenses are allowed in a bankruptcy proceeding, “[t]he determination of the timing of payment of administrative expenses is a matter within the discretion of the bankruptcy court.” *In re Colortex Industries, Inc.*, 19 F.3d 1371, 1384 (11th Cir. 1994). Given the lack of authority, the Court sees no reason to grant the Association’s request.

The Association’s next request, that the Court grant it to leave from the Receivership Order to record claims of lien against the Urbin Units to “properly protect[ ] its lien status”, ECF No. [475] at 6, is similarly unavailing. As the Association recognizes in its Motion, under Florida law, “where a declaration of condominium is recorded . . . recording a claim of lien is not an absolute prerequisite to the enforcement of a lien for unpaid assessments.” *Calendar v. Stonebrdge Gardens Section III Condo. Ass’n*, 234 So. 3d 18, 19 (Fla. 4th DCA 2016) (citation omitted). As such, the Association has not shown that relief from the Receivership Order is warranted.

Finally, the Court declines to enter an order specifying that the Association can pursue its *in personam* rights against a subsequent purchaser of the Urbin Units

for unpaid maintenance fees and assessments. The Association relies upon Florida Statute section 718.116(1)(a) for the proposition that it has the right to pursue an *in personam* judgment against a subsequent unit owner when the prior unit owner failed to pay all assessments. ECF No. [476] at 12. However, neither the Receivership Order nor the Receiver's proposed order on its Motion to Approve Back-Up Contract for Sale bars claims against non-receivership parties, such as a buyer of the Urbin Units, or otherwise impair any rights that the Association may have against subsequent purchasers under Florida law.

### III. CONCLUSION

For the foregoing reasons, it hereby **ORDERED AND ADJUDGED** that the 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, ECF No. [476], is **DENIED**. In light of this ruling, it is **FURTHER ORDERED AND ADJUDGED** that the Commodore Centre Condominium Associations, Inc.'s initial Motion 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, ECF No. [463], is **DENIED AS MOOT**.

**DONE AND ORDERED** in Miami, Florida this 29th day of December, 2025.

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