

**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 RESPONSE TO CG INVESTORS’ MOTION TO INTERVENE

Bernice C. Lee, as the Court-appointed Receiver (“Receiver”) over the Receivership Companies,¹ submits this response to the Amended Motion to Intervene for the Limited Purpose of Opposing Receiver’s Proposed Third-Party Litigation Procedures (“Motion to Intervene”) [DE 503] filed by CWL-CH, LLC, ASJAIA, LLC and Vieden Grove Oz, LLC (“CG Investors”). The Motion to Intervene is premised on the manifestly false assumption that the Receiver – an equity receiver with broad powers under the Receivership Order and applicable law – is restricted in her actions by the member consent provisions of the operating agreement for one of the Receivership Companies. To accept that argument would completely undermine the purpose and function of an equity receiver, and disregard well established law regarding equity receiverships.

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.

BACKGROUND

On December 23, 2025, the Receiver, consistent with the authority vested in her by the Court's Order Granting Plaintiff Securities and Exchange Commission's Expedited Motion for Appointment of Receiver, Asset Freeze, and Other Relief Against the Company Defendants ("Receivership Order") [DE 28], filed a Motion to Approve Third Party Litigation Procedures and Contingency Fee Arrangement [DE 490] in order to (a) confirm her authority to assert and resolve potential litigation claims against third parties; (b) set forth clear and efficient procedures for the resolution of such claims and further Court approval in appropriate circumstances; and (c) approve the engagement of her firm, Kozyak Tropin & Throckmorton, LLP ("KTT") as counsel to pursue such claims on a contingent fee basis, based on the Receiver's determination that such an arrangement is in the best interests of the receivership estate. The Litigation Procedures Motion was filed after consultation with, and with the consent of, the Securities and Exchange Commission ("S.E.C.").

The CG Investors filed an objection to the Litigation Procedures Motion [DE 496], contending that (a) hiring the Receiver's law firm was a conflict of interest; (b) no contingent fees should be paid without court review and approval; and (c) the Receiver should be required to publicly disclose "all information that relates to the disposition of the Additional Third Party Claims," including the identity of the targets, the basis of the claims, and the expected recovery. The Receiver replied to the CG Investors' objection, noting in addition to her substantive responses that the CG Investors, as non-parties, lacked standing, had not sought to intervene under Fed. R. Civ. P. 24, and could not demonstrate a basis to intervene. [DE 497]. The Receiver incorporates by reference those arguments here.

Notably, the CG Investors did not even raise the argument now made in the Motion to Intervene – that the Receiver is prohibited from engaging counsel or initiating litigation without obtaining the consent of a super-majority of the members of Urbin Coconut Grove Partners, LLC (“Urbin CG”) under the terms of the Urbin CG Operating Agreement – in their objection to the Litigation Procedures Motion. Nor, for that matter, did the CG Investors raise that argument in any of their prior objections, including to the sale of the “Commodore Properties” for which Urbin CG is the parent company (and for which the closing of the sale has now been completed). As discussed below, the Receivership Order, consistent with the expansive equity jurisdiction of this Court, gives the Receiver broad powers to administer the receivership estate including the exclusive authority to bring and settle litigation, subject only to Court approval as appropriate, and not subject to the approval of members under corporate operating agreements.

DISCUSSION

A. The Broad Powers of an Equity Receiver.

The CG Investors’ argument is based on the fallacy that the Receiver is effectively nothing more than a replacement manager of the Receivership Companies, and is bound by the terms of the organizational documents of the Receivership Companies in any of her actions. The CG Investors do not cite a single case that actually supports that proposition.² And this is not surprising, because an equity receiver is not merely a corporate manager or officer: rather, courts have repeatedly made clear that the authority of a receiver appointed in an S.E.C. enforcement action derives from the broad power of the district court to determine relief in an equity receivership. *Sec. & Exch. Comm’n v. Elliott*, 953 F.2d 1560 (11th Cir. 1992) (“The district court has broad powers and wide discretion to determine relief in an equity receivership. ... This discretion derives from

² The cases they do cite will be discussed below.

the inherent powers of an equity court to fashion relief.”) (internal citations omitted). That power and discretion are ratified by 15 U.S.C. § 78u, which provides that “In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.”

Consistent with that broad power and wide discretion, district courts in S.E.C. actions routinely empower court-appointed receivers to, among other things:

(1) Bring, compromise or settle litigation on behalf of receivership entities, *see, e.g., Sec. & Exch. Comm’n v. Complete Bus. Solutions Group, Inc.*, No. 20-CV-81205-RAR, 2025 WL 2840732, at *1 (S.D. Fla. Apr. 29, 2025) (SEC receiver authorized to “pursue and defend all claims that may be brought by or asserted against the Receivership Estates and to compromise claims and actions involving Receivership Property”); *Sec. & Exch. Comm’n v. Lauer*, No. 03-80612, 2015 WL 11004892, at *2 (S.D. Fla. Nov. 24, 2015) (receiver given broad powers to defend, compromise and settle legal actions); *Sec. & Exch. Comm’n v. Levine*, No. 09-80135, 2009 WL 10712514, at *8 (S.D. Fla. May 5, 2009) (receiver appointed to, among other things, institute legal proceedings for the benefit of investors);

(2) Sell property of the receivership entities, *see, e.g., Sec. & Exch. Comm’n v. Kapoor*, No. 23-CV-23903-JB, 2024 WL 3026490 (S.D. Fla. Jun. 17, 2024) (receivership order authorizes receiver to sell real property in the Receivership Estate); *Sec. & Exch. Comm’n v. Kirkland*, No. 6:06-cv-183-Orl-28KRS, 2007 WL 704688 (M.D. Fla. Mar. 2, 2007) (district court’s broad powers in equity receivership include power to permit receiver to sell property of receivership estate); and

(3) Develop and implement plans for recovery, liquidation and distribution of receivership property, *see, e.g., Sec. & Exch. Comm’n v. Complete Bus. Solutions Group, Inc.*, No.

20-CV-81205-RAR, 2024 WL 5348580 (S.D. Fla. Dec. 16, 2024), at *2, 6 (noting that in formulating a distribution plan, “there are no hard rules governing a district court’s decisions in matters like these. The standard is whether a distribution is equitable and fair in the eyes of a reasonable judge.”); *Sec. & Exch. Comm’n v. TCA Fund Mgmt. Group Corp.*, No. 20-21964-CIV-ALTONAGA, 2022 WL 3334488 (S.D. Fla. Aug. 4, 2022) (broad powers and wide discretion in equity receivership includes authority of receiver to propose distribution plan). In exercising these broad powers, the receiver and the court are not constrained by principles of corporate governance, but rather are applying federal principles of equity. *See TCA Fund*, 2022 WL 3334488 at *7 (federal equitable principles governed distribution of funds notwithstanding that certain investors had were based outside of the U.S. and had invested in a fund based in the Cayman Islands, and unsuccessfully argued that Cayman law must apply instead).

In each of these instances, these powers are not derived from the corporate organizational documents of the receivership entities, but rather from the district court’s broad equity jurisdiction. Accordingly, the premise of the CG Investors’ Motion to Intervene is fundamentally flawed: the Receiver is not a corporate officer who must answer to the board or members of the Receivership Companies; she is an equity receiver who answers to the Court, and whose authority derives from the broad powers and wide discretion conferred by the Court’s equity jurisdiction over S.E.C. receiverships.

B. The Receivership Order.

Consistent with the broad powers and wide discretion this Court has in the exercise of its equity jurisdiction, the Receivership Order confers powers and authorities on the Receiver which are plainly inconsistent with the CG Investors’ position. These provisions make clear that the Receiver has exclusive authority, subject to the Court’s review, over all the Receivership

Companies, and that any restrictions on that authority over the Receivership Companies are superseded by the Receivership Order. For instance:

Paragraph 4 of the Receivership Order provides that the Receiver has all powers and authorities previously held by any officers, directors, managers, and general and limited partners of the Receivership Companies under the applicable governing documents, and “*in addition*,” has “all powers and authority of a receiver at equity ...” [DE 28]. In other words, the Receiver both holds all corporate powers, *and* holds all equity receiver powers as well.

Paragraph 5 of the Receivership Order provides that any other trustees, directors, managers, employees, advisors and other agents of the Receivership Companies are dismissed, that their powers are suspended, and that they have “no authority with respect to the Receivership Defendants’ operations or assets, except to the extent as may hereafter be expressly granted by the Receiver.” Paragraph 5 further specifically provides that “*The Receiver shall assume and control the operation of the Receivership Defendants and shall pursue and preserve all of their claims.*” (emphasis added).

Paragraph 6 of the Receivership Order provides that “No person holding or claiming any position of any sort with the Receivership Defendants shall possess any authority to act by or on behalf of the Receivership Defendants.” Accordingly, no other person – including the CG Investors, or other members of Urbin CG – may claim any authority to act or to control the actions of the Receiver on behalf of the Receivership Companies.

Paragraph 7(C) of the Receivership Order authorizes the Receiver to “manage, control, operate and maintain” all Receivership Property.

Paragraph 7(F) of the Receivership Order authorizes the Receiver to engage and employ, in her discretion, attorneys and others to assist her in carrying out her duties and responsibilities.

Paragraph 7(I) of the Receivership Order specifically authorizes the Receiver “[t]o bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging her duties as Receiver.” (emphasis added).³

Paragraph 23 of the Receivership Order enjoins all persons with notice of the Receivership Order from directly or indirectly taking any action, or causing any action to be taken, without the express written agreement of the Receiver, which would “interfere with the Receiver’s efforts to take control, possession, or management of any Receivership Property” or “interfere with or harass the Receiver or interfere in any manner with the exclusive jurisdiction of the Court over the Receivership Estates.”

Collectively, these provisions make abundantly clear that (1) the Receiver has exclusive authority and control over all Receivership Property, including claims of the Receivership Entities, subject to the Court’s supervision; (2) that any authority of any other person with respect to the operation or management of the Receivership Companies (such as the CG Investors, as members of Urbin CG) is suspended; (3) that the Receiver is specifically authorized and empowered to bring legal actions as she deems necessary or appropriate; and (4) that any interference with the Receiver’s exercise of these powers and authorities (such as by asserting that such actions require approval of the members of the Receivership Companies, as the CG Investors argue in their Motion to Intervene) is enjoined.

Accordingly, since the Motion to Intervene is predicated on a notion that is fundamentally inconsistent with the Receivership Order itself – i.e., that the Receiver is required to obtain

³ Further provisions regarding commencement of litigation are set forth in Sections 36-39 of the Receivership Order, none of which involve obtaining member approval under any corporate documents of the Receivership Companies.

approval of the members of Urbin CG before pursuing litigation as authorized by the Receivership Order – it should be denied.

C. The CG Investors' Cases are Inapplicable.

In support of their argument, the CG Investors cite a number of cases, none of which actually stand for the premise advanced by the CG Investors in the Motion to Intervene that the Receiver's authority to bring litigation on behalf of the Receivership Companies is constrained by the terms of the Urbin CG operating agreement. They do not even address that issue. Rather, these cases address an entirely different issue of a receiver's *standing* to assert claims on behalf of the receivership companies.

For instance, in *Isaiah v. JPMorgan Chase Bank*, 960 F.3d 1296 (11th Cir. 2020), cited by *Sec. & Exch. Comm'n v. Terry*, 833 F. App'x 229, 233 (11th Cir. 2020), the court held that the receiver could only assert claims that belonged to the receivership companies, and could not assert claims for aiding and abetting the receivership companies' breach of fiduciary duty because such claims belonged to the defrauded investors. *Id.* at 1305-06. In *Sec. & Exch. Comm'n v. Alleca*, No. 21-13486, 2022 WL 16631325, *4 (11th Cir. Nov. 2, 2022), the court merely cited to *Isaiah* in a dicta statement regarding the availability of a laches defense. *Sec. & Exch. Comm'n v. I Global Capital, LLC*, No. 18-cv-61991-BLOOM, 2019 WL 718107 (S.D. Fla. Feb. 20, 2019), addressed the ability of the receiver to recover certain funds upon termination of a banking relationship. *Goldberg v. Chong*, No. 07-20931-CIV, 2007 WL 2028792 (S.D. Fla. Jul. 11, 2007) addressed the standing of the receiver to bring claims under the uniform fraudulent transfer act for funds improperly taken from the receivership entities.⁴ *Sec. & Exch. Comm'n v. Pension Fund of Am.*

⁴ Notably, in *Goldberg*, the opinion makes clear that it was the order appointing the receiver which authorized the receiver to bring such claims: "Pursuant to that Order, the Receiver was authorized

LC, No. 05-20863-CIV-MOORE/GARBER, 2006 WL 8433996 (S.D. Fla. Sep. 11, 2006), addressed the receiver's entitlement to recover certain funds on behalf of the receivership estate. *Sec. & Exch. Comm'n v. BKCoin Mgmt, LLC*, No. 23-CV-20719-SCOLA/GOODMAN, 2024 WL 1931524 (S.D. Fla. Mar. 26, 2024) addresses a claim for indemnification by a former officer of a receivership company, and actually holds that in interpreting the applicable agreement, "there is substantial force to the idea that the pre-receivership and the receivership entity are meaningfully different; they are managed by different individuals for different purposes and are governed by different rules." *Id.* at *7, citing *Andrikopoulos v. Silicon Valley Innovation Co.*, 120 A.3d 19, 25 (Del. Ch. 2015), *aff'd*, 142 A.3d 504 (Del. 2016).

Winkler v. McCloskey, 83 F.4th 720 (9th Cir. 2023) likewise deals with an entirely different issue of whether, when a receiver brings a claim against a member of a receivership entity, the receiver is bound by an arbitration provision in the receivership entity's operating agreement. And even that court noted that "Our conclusion that the Receiver is acting on behalf of the receivership entities does not establish that the Receiver is bound by the arbitration agreements ..." notwithstanding the "general rule" that "[a] receiver occupies no better position than that which was occupied by the person or party for whom he acts." (citations omitted).

None of these cases support the proposition which underlies the Motion to Intervene.

D. The CG Investors Do Not Satisfy the Standard for Intervention.

In her response to the CG Investors' objection to the Litigation Procedures Motion [DE 497], the Receiver addressed why the CG Investors were not entitled to intervene under Fed. R. Civ. P. 24, including in particular that (a) intervention is prohibited by Section 21(g) of the

to institute legal proceedings on behalf of the Receivership entities against parties which may have improperly misappropriated money or proceeds from the Receivership entities' investors." *Id.* at *1.

Securities Exchange Act without the S.E.C.'s consent; and (b) the CG Investors have not demonstrated that their interests are not adequately represented by the Receiver and the S.E.C., which is charged by law with protecting the interests of investors. The CG Investors' only response to the first issue is to assert, without citation to any authority, that courts approve limited intervention where the movant does not assert independent causes of action and does not require consolidation with any collateral litigation. And their only response to the second issue is to argue that the S.E.C.'s lack of objection to the Litigation Procedures Motion on the grounds now argued by the CG Investors demonstrates that it is not an adequate representative of investor interests – an argument which completely fails to address the extensive case law cited in the Receiver's prior filing, including that “a mere difference in *how* [a] goal may be attained is not a ‘compelling showing’ that rebuts the presumption that the SEC (and, by extension, a court-appointed receiver) adequately represents the investor’s interests.” *Sec. & Exch. Comm’n v. BIC Real Estate Dev. Corp.*, No. 1:16-cv-344-LJO-JLT, 2017 WL 85789, *3-4 (E.D. Cal. Jan. 10, 2017). Moreover, that argument is based on the fallacious assumption, discussed above, that an equity receiver is constrained in her powers and authorities by the restrictions on a manager under the corporate documents of the receivership entity. Nor does that fallacious argument establish any particular interest of the CG Investors in the subject matter of the action (i.e., the litigation claims which may be brought by the Receiver) that is distinct from the interests of all other investors in the Receivership Companies, as required for intervention as of right under Fed. R. Civ. P. 24(a).

The Motion to Intervene on that basis is also untimely. The Receivership Order conferring the power and authority on the Receiver to, among other things, manage and sell property of the Receivership Companies, engage counsel, and investigate and prosecute litigation claims on behalf of the Receivership Companies, was entered January 12, 2024. Since that time, the Receiver has

exercised those powers to engage counsel, to sell several properties (including the Commodore Properties), and now, to file the Litigation Procedures Motion. If the CG Investors intended to intervene on the basis that the Receiver's exercise of those powers was constrained by the organizational documents of Urbin CG, the time for raising that issue was when the Receivership Order was entered, more than two years ago. Given the CG Investors' multiple objections filed in this case already, they can hardly argue that the Litigation Procedures Motion is the first matter with which they have taken issue. And as they acknowledge, they previously sought to intervene in connection with the Commodore Sale Motion [DE 238], but did not even raise this issue at that time.

In the Motion to Intervene, the CG Investors argue that "limited intervention" is permissible where the applicant is directly affected by the challenged process and seeks only to be heard on a specific issue, citing *Boca Raton Hosp., Inc. v. Tenet Healthcare Corp.*, 271 F.R.D. 530, 537 (S.D. Fla. 2010) and *Abreu v. Pfizer, Inc.*, No. 21-62122-CIV-MORENO/GOODMAN, 2022 WL 2341427 (S.D. Fla. Feb. 3, 2022). Neither case supports the CG Investors' Motion to Intervene, and in fact they confirm why it should be denied.

In *Boca Raton*, a tobacco company sought to intervene in a previously settled action by a hospital against a healthcare provider to modify a protective order prohibiting the dissemination of certain discovery documents, in order to obtain them in connection with a separate action by one of the parties to the settled action against the tobacco company. The court noted that permissive intervention was the proper method for the tobacco company to seek relief. *Id.* at 534. It noted that in considering permissive intervention, "the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." *Id.* And it further noted that "it is wholly discretionary with the court whether to allow intervention under Rule 24(b)

and even though there is a common question of law or fact, or the requirements of Rule 24(b) are otherwise satisfied, the court may refuse to allow intervention.” *Id.*, citing *Purcell v. BankAtlantic Fin. Corp.*, 85 F.3d 1508, 1513 (11th Cir. 1996) (quoting *Worlds v. Dep’t of Health & Rehab. Servs.*, 929 F.2d 591, 595 (11th Cir. 1991)).

The *Boca Raton* decision went on to note that the court considers “(1) the length of time during which the proposed intervenor knew or reasonably should have known of the interest in the case before moving to intervene; (2) the extent of prejudice to the existing parties as a result of the proposed intervenor’s failure to move for intervention as soon as it knew or reasonably should have known of its interest; (3) the extent of prejudice to the proposed intervenor if the motion is denied; and (4) the existence of unusual circumstances militating either for or against a determination that their motion was timely.” *Id.*, citing *Georgia v. U.S. Army Corps. Of Eng’rs*, 302 F.3d 1242, 1259 (11th Cir. 2002); *Accord United States v. Jefferson County*, 720 F.2d 1511, 1516 (11th Cir. 1983); *Stallworth v. Monsanto Co.*, 558 F.2d 257, 264-66 (5th Cir. 1977); *Florida Key Deer v. Brown*, 232 F.R.D. 415, 416 (S.D. Fla. 2005). In considering these factors, the *Boca Raton* court specifically noted that the concern with preventing prejudice to adjudication of rights of existing parties does not exist when the existing parties have settled. *Id.* at 535. That is clearly not the case here, where the CG Investors seek intervention in order to interpose their objections to a substantive matter presently under consideration by the Court in an ongoing receivership case. The *Boca Raton* court also distinguished its situation from other cases that “involved motions filed to upset previously granted relief or where intervention would have delayed or effected the adjudication of the existing parties’ rights.” *Id.* Here, that is precisely what the CG Investors seek – to obtain relief that is plainly inconsistent with the Receivership Order, and to delay or alter the

adjudication of the Receiver's rights to engage counsel and pursue litigation on behalf of the receivership estate.

In *Abreu*, in a putative class action relating to a drug recall, a non-party which had its own parallel class action sought to intervene in order to oppose the defendant's motion to change venue. The court found the timeliness element satisfied because the motion to intervene was filed within 27 days after the filing of the motion to change venue, and two days after plaintiff filed its response. *Id.* at *4-5. However, the court held both mandatory and permissive intervention inapplicable because the proposed intervenor did not demonstrate that its interests were not adequately represented. *Id.* at *8-9. *Abreu* further confirms the court's broad discretion over permissive intervention, nothing that "even if a movant meets the elements for permissive intervention, the Court may exercise its discretion and refuse intervention." *Id.* at *9, citing *Athens Lumber Co. v. Fed. Election Comm'n*, 690 F.2d 1364, 1367 (11th Cir. 1982); and *Worlds v. Dep't of Health & Rehab. Servs., State of Fla.*, 929 F.2d 591, 595 (11th Cir. 1991).

The CG Investors' reference to *Clark v. Putnam County*, 168 F.3d 458 (11th Cir. 1999) does not support their cause. In *Clark*, the court found that the existing parties (county commissioners being sued by white voters challenging a voting plan) did not adequately represent the black voters who supported the voting plan, because there was a "sufficient divergence of interest" between the proposed intervenors and the commissioners, who asserted that they represented *all* voters (both the plaintiff white voters who opposed the voting plan and the defendant black voters who supported it) but could not effectively do so. *Id.* at 461. Moreover, the court noted that the commissioners were elected officials who had an interest in remaining politically popular, which could compromise their ability to represent the interests of certain parties. *Id.* at 462. Here, to the contrary, there is abundant authority, as cited in the Receiver's prior

Reply [DE 497] that the S.E.C., which is charged by law with protecting the interests of all investors, is presumed to adequately represent their interests absent a showing of gross negligence or bad faith. *See, e.g., Sec. & Exch. Comm'n v. Stanford Int'l Bank, Ltd.*, 3:09-CV-0298-N, 2011WL 13160367 (N.D. Tex. Nov. 14, 2011); *Johnson v. City of Dallas*, 155 F.R.D. 581, 586 (N.D. Tex. 1994). *See also Sec. & Exch. Comm'n v. A Chicago Convention Center, LLC*, No. 13 C 982, 2013 WL 12498528, *2 (N.D. Ill. Sep. 11, 2013); *Sec. & Exch. Comm'n v. BIC Real Estate Dev. Corp.*, No. 1:16-cv-344-LJO-JLT, 2017 WL 85789, *3-4 (E.D. Cal. Jan. 10, 2017); *Chen v. Walsh*, No. 18-23894-CV-MIDDLEBROOKS, 2018 WL 11348600, *2-3 (S.D. Fla. Dec. 21, 2018).

Nor do *Travelers Indem. Co. v. Attorneys' Title Ins. Fund*, No. 2:13-cv-670-Ftm-38DNF, 2014 WL 12607855 (M.D. Fla. Apr. 25, 2014) (where the court granted an insurer permissive intervention because the reasonableness of a settlement for which it contested coverage would be best addressed in a single lawsuit) or *Burns v. MLK Express Services, LLC*, No. 2:18-cv-625-Ftm-32MRM, 2020 WL 1891175 (M.D. Fla. Apr. 16, 2020) (where the court allowed the plaintiff in a certified and substantially similar class action to intervene to object to a report and recommendation that could have a significant impact on the intervenor's case) support the CG Investors' assertion here that they should be permitted to intervene based on the flawed premise that the Receiver must comply with corporate organizational documents before pursuing litigation claims or engaging counsel, two years after the Court entered the Receivership Order conferring those powers and authorities on the Receiver consistent with its broad equity jurisdiction.

Aside from being based on the erroneous assumption that the Receiver is constrained in her powers by the corporate organizational documents of the Receivership Companies, the Motion to Intervene is untimely, does not demonstrate a particular interest of the CG Investors in the

subject matter distinguishable from those of any other investor, does not demonstrate that their interests are not adequately represented, and fails to satisfy the requirements of Fed. R. Civ. P. 24.

E. Granting Intervention Would Substantially Impede the Receivership.

The CG Investors claim, without any citation to authority, that granting their Motion to Intervene will not impede the receivership. The foregoing demonstrates that nothing could be further from the truth. If intervention were granted on the basis that the Receiver is required to obtain corporate authority to pursue litigation claims and compensate attorneys (or take other actions that might constitute “Major Decisions” under the corporate documents, such as sale of the company’s assets, entering into or terminating agreements to sell assets of the company, distributing proceeds, or doing “any act in contravention of this Agreement”), the ability of the Receiver to administer this case would grind to a halt. There are *more than twenty* Receivership Companies that are part of this receivership case. If the CG Investors’ argument were adopted, then any action by the Receiver on behalf of the Receivership Companies generally could require the Receiver to solicit and obtain the consent of a super-majority of the members of each of those entities before she could proceed. Such a process would be entirely antithetical to the broad powers granted to an equity receiver under applicable law, and would make it practically impossible to administer the case. Moreover, if the CG Investors’ argument were adopted, then any distribution plan that would be proposed in this receivership would have to conform with the operating documents of each of the twenty-two Receivership Companies, in complete contravention of the well-accepted premise that in an equity receivership, there are no “hard rules” and the standard is whether a distribution is “equitable and fair in the eyes of a reasonable judge.” *Complete Bus. Solutions*, 2024 WL 5348580 at *6.

More broadly, in many instances, the parties who a receiver may be pursuing through litigation claims often are the members of the receivership entities themselves – for instance, where a receiver pursues fraudulent conveyance claims against investors who have received improper distributions. Adopting the CG Investors’ argument might well make it impossible for a receiver to pursue such claims if the receiver were constrained by the corporate organizational documents in the exercise of her authority to pursue litigation claims, since the targets could simply withhold their consent.

The reason for the conferral of broad and exclusive powers upon the Receiver, subject to the Court’s supervision, is to enable the Receiver to administer the receivership estate for the benefit of investors and interested parties, without interference. Granting the CG Investors’ Motion to Intervene would turn that notion on its head, and would substantially interfere with and impede the receivership.

CONCLUSION

For the foregoing reasons, the Receiver respectfully submits that the CG Investors’ Motion to Intervene should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served this 4th day of February, 2026 via CM/ECF upon all counsel of record.

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