

**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.

**CWL-CH, LLC, ASJAIA, LLC, AND VIEDEN GROVE OZ, LLC'S REPLY IN
SUPPORT OF MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF
OPPOSING RECEIVER'S MOTION TO APPROVE LITIGATION PROCEDURES**

CWL-CH, LLC ("CWL-CH"), ASJAIA, LLC ("ASJAIA"), and VIEDEN GROVE OZ, LLC ("Vieden") (jointly and referred to hereafter as the "CG Investors"), by and through the undersigned counsel and pursuant to Fed. R. Civ. P. 24, hereby file this Reply in Support (the "Reply") of their Amended Motion to Intervene [D.E. 503] for the Limited Purpose of Opposing Receiver Bernice C. Lee's (the "Receiver") Motion to Approve Third Party Litigation Procedures and Contingency Fee Arrangement, and in support thereof, state as follows:

INTRODUCTION

The Receiver's Response to the CG Investors' Motion to Intervene fundamentally ignores the statutory framework governing equity receiverships. While the Receiver correctly notes that the Court has broad equitable powers, she seems to assume that those powers have no statutory constraints. Likewise, although the Receivership Order granted her broad powers, she incorrectly concludes that these powers allow her to disregard applicable state law and the Operating



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Agreement that governs Urbin Coconut Grove Partners, LLC ("UCGPLLC"). Importantly, federal law explicitly requires receivers to manage properties in compliance with state law and Florida's Revised Limited Liability Company Act mandates that receiverships operate in accordance with applicable operating agreements. Thus, the Receiver must act in accordance with the terms of the UCGPLLC Operating Agreement. Because her proposed litigation procedures contravene the terms of that OA, the CG Investors are entitled to intervene to protect their rights.

LEGAL ARGUMENT

1. Federal Law Requires the Receiver to Comply with State Law

The Receiver's Response completely fails to address the authorities that concluded that general equity receivers (including SEC receivers) "step into the shoes" of the receivership entity's management. *See for example SEC v. Terry*, 833 F. App'x 229, 233 (11th Cir. 2020). Instead, the Receiver's position is that she may disregard the UCGPLLC Operating Agreement. However, that position is contrary to federal law. As the CG Investors have previously noted, under 28 U.S.C. § 959(b), receivers must manage and operate receivership property "according to the requirements of the valid laws of the State in which such property is situated, *in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.*" [28 USCS § 959](#) (emphasis added).¹ That statute says that the Receiver "stepped into the shoes" of the receivership entity for state law purposes. Moreover, it limits the authority that the Court might have to grant to the Receiver in this case. And, § 959(b) explicitly requires the Receiver to comply with Florida law,

¹ The CG Investors have consistently maintained that the present receivership is subject to the limit imposed under § 959(b). *See for example* Objection by Members of UCGPLLC, etc., dated October 15, 2024, D.E. 265, at page 7.; CG Members' Reply, etc., dated October 29, 2024, D.E. 286 at page 2, n. 1.



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including the Florida Revised Limited Liability Company Act in the same manner as UCGPPLC and its former managers would have been bound to do.

2. Florida Law Requires Adherence to Operating Agreements

Under Florida law, operating agreements govern the relations among members and between members and the limited liability company, as well as the activities and affairs of the company and the conduct of those activities and affairs. [Fla. Stat. § 605.0105](#). The Florida Revised Limited Liability Company Act explicitly provides that "a limited liability company is bound by and may enforce the operating agreement." [Fla. Stat. § 605.0106](#). More importantly, "a manager of a limited liability company is bound by the operating agreement, regardless of whether the manager. has agreed to the operating agreement." [Fla. Stat. § 605.0106](#).

The Receiver stands in the shoes of UCGPLLC's manager and is therefore bound by the UCGPLLC Operating Agreement. The Receiver's argument that she derives her authority solely from the Court's equity jurisdiction ignores the limitation that Congress imposed on the Court when it adopted § 959(b). Further, she ignores the explicit Florida statutory requirement that LLC managers, including court-appointed receivers acting as managers, must comply with operating agreements.

Indeed, the Florida courts have specifically reversed orders that appointed receivers to take control of LLCs' finances. *See Ramos v. Miss. Real Estate Dispositions, LLC*, 314 So. 3d 643 (Fla. 3rd DCA 2021) *citing McClandon v. Dakem & Assocs., LLC*, 219 So. 3d 269, 270 (Fla. 5th DCA 2017) (trial court abused its discretion in determining the scope of the receiver's power — specifically, by authorizing the receiver to have managerial control over the LLCs). As the *Ramos* court observed, "it is well settled that a trial court may not exercise its equitable powers to contravene statutory law." 314 So. 3d at 648.



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Finally, just as UCGPLLC was a signatory to the Halpern Parties' mortgage, that entity is also a signatory to the UCGPPLC Operating Agreement. It would be inequitable for this Court to hold that the Receiver can pick and choose between the agreements that are binding on Receivership Entities. Due process requires that the parties that are affected by such decisions be heard and be allowed to intervene to protect their rights. Also, the former managers of UCGPLLC could not have exercised such authority to disregard that entity's OA, while favoring the Halpern Parties.

3. The Operating Agreement Requires Member Approval for Major Decisions

The UCGPLLC Operating Agreement explicitly requires "Member Approval" for "Major Decisions," which include decisions related to litigation matters exceeding \$100,000 and other significant business decisions. Under Florida law, in a manager-managed limited liability company, "the affirmative vote or consent of a majority-in-interest of the members is required to undertake an act outside the ordinary course of the company's activities and affairs." [Fla. Stat. § 605.04073](#). The litigation procedures proposed by the Receiver constitute acts outside the ordinary course of business and therefore require member approval under both the Operating Agreement and Florida law.

4. The CG Investors Have a Right to Intervene to Protect Their Interests

The CG Investors seek to intervene for the limited purpose of ensuring that the Receiver complies with the Operating Agreement and Florida law. Federal Rule of Civil Procedure 24 permits intervention as of right when the applicant "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." USCS Fed. Rules Civ. Proc. R. 24.



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The CG Investors have a direct interest in ensuring that the Receiver complies with the Operating Agreement's provisions regarding Major Decisions. The Receiver's proposed litigation procedures would circumvent these provisions and deprive the CG Investors of their contractual rights. No other party adequately represents the CG Investors' interests in this matter.

5. The Receiver's Broad Powers Do Not Override Statutory Requirements

While the Receivership Order grants the Receiver broad powers, these powers must be exercised in accordance with applicable law. The Receiver's argument that requiring compliance with the UCGPLLC Operating Agreement would "grind to a halt" the administration of the receivership is overstated. The UCGPLLC Operating Agreement simply requires the Receiver to obtain member approval for Major Decisions - a requirement that is consistent with both Florida and federal statutes that govern receiverships.²

CONCLUSION

Regarding the operation of equitable receiverships, this Court's authority is constrained by 28 USC § 959(b). The constraint imposed by § 959(b) requires that any such receivership be conducted in accordance with state law, as if the receiver stepped into the shoes of the entity that she is managing or operating. Here, those state laws include Florida's Revised LLC Act, which requires that a receiver act in accordance with an LLC's operating agreement.

Because the Receiver's proposed "Litigation Procedures" would violate the provisions of UCGPLLC's Operating Agreement, this Court must recognize that the CG Investors' are entitled

² The Receiver argues that an order that allowed the CG Investors to intervene would automatically affect the "twenty Receivership Companies that are part of this receivership case." See D.E. 518 at page 15 (emphasis in original). However, there is no indication that each of the receivership entities is governed by an operating agreement that includes the "Major Decision" requirement that governs UCGPLLC. Indeed, there is no indication that the Receiver has even analyzed each entities' governing documents. Therefore, the record does not support this suggestion that a "parade of horrors" would follow from granting the relief that the CG Investors are seeking.



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to intervene for the limited purpose of protecting the rights that are granted to them under that operating agreement. For that and other reasons, the Court should grant the present motion to intervene.

WHEREFORE, CWL-CH, LLC, ASJAIA, LLC, and VIEDEN GROVE OZ, LLC, respectfully request that this Court enter an order (i) granting their Motion to Intervene for the Limited Purpose of Objecting to Receiver Bernice C. Lee's Motion to Approve Third Party Litigation Procedures and Contingency Fee Arrangement; (ii) denying Receiver Bernice C. Lee's Motion to Approve Third Party Litigation Procedures and Contingency Fee Arrangement; and (iii) granting such further relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on February 11, 2026, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, and that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

By: /s/ Schneur Zalman Kass
SCHNEUR ZALMAN KASS



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