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11 Attorneys for Receiver
12 THOMAS A. SEAMAN

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 SOUTHERN DIVISION

16 SECURITIES AND EXCHANGE
COMMISSION,

17 v.

18 EMILIO FRANCISCO; PDC CAPITAL
GROUP, LLC; CAFFE PRIMO
19 INTERNATIONAL, INC.; SAL
ASSISTED LIVING, LP; SAL
20 CARMICHAEL, LP; SAL CITRUS
HEIGHTS, LP; SAL KERN CANYON,
21 LP; SAL PHOENIX, LP; SAL
WESTGATE, LP; SUMMERPLACE AT
22 SARASOTA, LP; SUMMERPLACE AT
CLEARWATER, LP; SUMMERPLACE
23 AT CORRELL PALMS, LP; TRC
TUCSON, LP; CLEAR CURRENTS
24 WEST, LP; CAFFE PRIMO
MANAGEMENT, LP; CAFFE PRIMO
25 MANAGEMENT 102, LP; et al.,

26 Defendants.

Case No. 8:16-cv-02257-CJC-DFM

**[PROPOSED] ORDER APPROVING:
(1) SALE OF SARASOTA
PROPERTY; AND (2) OVERBID
PROCEDURES**

Date: December 4, 2017
Time: 1:30 p.m.
Ctmm: 9B, 9th Floor
Judge: Hon. Cormac J. Carney

1 The Court having reviewed and considered the motion of Thomas A. Seaman
2 ("Receiver") for an order approving: (1) the proposed sale of the real property and
3 improvements located at 5710 Draw Lane, Sarasota, Sarasota County, Florida
4 ("Sarasota Property"); (2) the proposed overbid procedures to be used in connection
5 with the sale of the Sarasota Property; and (3) the payment of the broker's
6 commission of ____% of the difference between \$1,425,000 and the sale price
7 realized for the Sarasota Property ("Motion").

8 In considering the Motion, the Court has also reviewed the Receiver's
9 concurrently submitted declaration, as well as the Purchase and Sale Agreement
10 ("PSA") dated September 29, 2017, by and between the Receiver and his proposed
11 stalking horse bidder for the Sarasota Property, Sunrise Land Partners, LLLP
12 ("Buyer"), appended as an exhibit thereto.

13 The Receiver is the court-appointed federal equity receiver for PDC Capital
14 Group LLC ("PDC") and their subsidiaries and affiliates. PDC is the 100% owner
15 of PDC Capital Partners, LLC, the 100% owner of Summerplace at Sarasota, LLC
16 ("Summerplace"). The membership of Summerplace is controlled by the Receiver
17 through PDC.

18 The Court finds that the Receiver has the authority to sell the Sarasota
19 Property as the sole member of Summerplace and provided adequate notice to all
20 interested parties, including, but not limited to, all those persons with an interest in
21 the Sarasota Property.

22 Having considered the Motion, the Receiver's declaration, the PSA, and good
23 cause appearing therefor, the Court orders as follows:

- 24 1. The Receiver's Motion is granted, in its entirety.
- 25 2. The Receiver is authorized to sell the Sarasota Property.
- 26 3. The Receiver's proposed sale of the Sarasota Property, including the
27 PSA, the Receiver's proposed overbid procedures, and the payment of all
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1 commissions due to the Receiver's brokers, including any affiliated or designated
2 brokers, as described in the Motion, are approved and authorized.

3 4. The Receiver is authorized to sell the Sarasota Property to Buyer,
4 [Buyer's designee, or _____, the Qualified
5 Overbidder,] as that term is defined in the Motion, who submitted the highest and
6 best bid for the Property at the hearing on the Receiver's Motion ("Final Purchaser"),
7 in conformity with the terms of the PSA.

8 5. In accordance with the terms of the PSA and without limiting its terms,
9 the Final Purchaser shall purchase the Sarasota Property on an "as-is, where-is"
10 basis, without any representations or warranties whatsoever by the Receiver, his
11 agents and/or attorneys including, without limitation, any representations or
12 warranties as to the condition of the Sarasota Property, except as expressly set forth
13 in the PSA. The Final Purchaser shall be deemed to be solely responsible for its
14 own due diligence, including, but not limited to, inspection of the condition of and
15 title to the Property, and shall be deemed not to have relied upon any representation
16 or warranty of the Receiver, except as expressly set forth in the PSA.

17 6. In the performance of his obligations pursuant to this Order, the
18 Receiver's liability in connection with the PSA and the sale of the Sarasota Property
19 shall be limited to the assets of the receivership estate established in the above-
20 entitled action. Neither the Receiver nor his agents and/or attorneys shall have any
21 personal liability for claims arising out of or relating to the performance of any
22 actions necessary to complete the sale of the Property as provided herein.

23 7. Provided he obtains the written consent of the Final Purchaser, the
24 Receiver is authorized to amend or otherwise modify the terms of the PSA and any
25 other agreements or instruments reasonably necessary to effectuate the sale of the
26 Sarasota Property as provided herein, in the event the Receiver determines, in his
27 sole discretion and reasonable business judgment, that such amendment or
28 modification is reasonable and necessary, will benefit the receivership estate, avoid

1 the imposition of liability upon the receivership estate, or is required pursuant to the
2 terms of the PSA or any other amendment or modification thereto, provided that
3 such amendment or modification does not change the material terms of the contract,
4 including the identity of the Final Purchaser (unless Buyer elects to permit its
5 designee to purchase) or the purchase price paid for the Sarasota Property.

6 8. The Receiver is hereby authorized to take all actions and execute all
7 documents necessary to consummate and otherwise effectuate the sale of the
8 Sarasota Property to the Final Purchaser, including, but not limited to, the PSA
9 itself, any other documents required to be executed pursuant to the PSA, and any
10 related documentation, escrow instructions, or conveyance documents consistent
11 with selling and conveying title to the Property to the Final Purchaser.

12 9. The Receiver is hereby authorized to execute and acknowledge a
13 receiver's deed conveying title to the Sarasota Property to Buyer ("Receiver's
14 Deed"), substantially in the form of Exhibit B to the PSA, to effectuate the
15 conveyance and cause the Receiver's Deed to be recorded on the date on which
16 close of escrow occurs pursuant to the terms of the PSA, or as otherwise approved
17 by the Receiver and the Final Purchaser.

18 10. The close of escrow ("Close of Escrow") for the sale of the Property
19 shall occur as soon after the entry of this Order as soon as reasonably practicable, or
20 as provided by the PSA.

21 11. The Receiver is authorized to pay a real estate broker's commission of
22 \$_____, reflecting ___% of the difference between \$1,425,000 and the final sales
23 price for the Sarasota Property in the event that an overbidding buyer is the
24 successful purchaser of the Property.

25 12. The Receiver is hereby authorized to pay from the proceeds of the sale
26 of the Sarasota Property, at the Close of Escrow: (a) all unpaid property taxes;
27 (b) all other closing costs and commissions that are the responsibility of the seller as
28 set forth in the PSA and/or related final closing statement; (c) any out-of-pocket

1 expenses the Receiver incurs in connection with the sale of the Sarasota Property;
2 and (d) any other expenses set forth in the PSA that are the responsibility of the
3 Receiver as seller thereunder.

4 13. Any licensed title insurer may rely on this Sale Order as authorizing the
5 Receiver to transfer title to the Sarasota Property as stated in Paragraph 8, above.

6 14. This Court retains jurisdiction over any dispute involving the Receiver
7 in connection with the sale of the Sarasota Property.

8 15. A certified copy of this Sale Order may be recorded concurrently with
9 the Receiver's Deed or at any time before the Close of Escrow, provided, however,
10 that failure to record this Sale Order shall not affect the enforceability of this Sale
11 Order, the enforceability and viability of the PSA, or the validity of the Receiver's
12 Deed.

13 16. The Mortgage, Assignment of Leases and Rents, Security Agreement
14 and Fixture Filing dated as of December 2, 2016, and recorded on December 6,
15 2016, as Instrument No. 2016150091 in favor of MCC U.S., Inc. ("MCC
16 Mortgage") and all associated liens and encumbrances shall be released from the
17 Sarasota Property and attach solely to the sale proceeds from the sale of the Sarasota
18 Property in the same validity and priority that they had with respect to the Sarasota
19 Property. The Receiver will hold and separately account for the sale proceeds from
20 the sale of the Sarasota Property separately pending further order of this Court. The
21 Receiver is authorized to execute such documents as may be required to effect this
22 Sale Order and, in particular, such documents as may be required to remove the
23 MCC Mortgage from the Sarasota Property.

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Dated: _____

Hon. Cormac J. Carney
Judge, United States District Court