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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

v.

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

Defendants.

Case No. 8:16-cv-02257-CJC-DFM
**ORDER APPROVING:
(1) SETTLEMENT AGREEMENT
WITH MCC US, INC., (2)
TRANSFER OF LINCOLN RED
ROCK PROPERTY; AND (3)
ANCILLARY RELIEF**

Date: April 30, 2018
Time: 1:30 p.m.
Ctrm: 9B, 9th Floor
Judge: Hon. Cormac J. Carney

The Court has reviewed and considered the motion of Thomas A. Seaman ("Receiver") for an order approving: (1) the Settlement Agreement and Release dated as of March 12, 2018 attached hereto as Exhibit A and incorporated herein by the reference; (2) the proposed transfer of the real property and improvements located at 850 Red Rock Road, Lincoln, California ("Lincoln Red Rock Property") to MCC U.S., Inc. (MCC") pursuant to that purchase and sale agreement attached to

1 the Settlement Agreement; (3) the payment of the broker's commission of \$312,000
2 to Hamlin Gooding; and (4) the payment of the break-up fee to Carefield SH
3 Management or its designee of \$175,000, (the "Motion"). In considering the
4 Motion, the Court has reviewed the Receiver's concurrently submitted declaration,
5 as well as the Settlement Agreement and the Purchase and Sale Agreement dated
6 March 12, 2018 ("PSA"), by and between the Receiver and MCC.

7 The Court finds that the Receiver has the authority to settle with MCC and to
8 transfer the Lincoln Red Rock Property to MCC pursuant to the Settlement
9 Agreement and PSA. The Court also finds that the Receiver provided adequate
10 notice to all interested parties, including, but not limited to, all those persons with an
11 interest in the Lincoln Red Rock Property.

12 Having considered the Motion, the Receiver's declaration, the Settlement
13 Agreement, the PSA, the responses to the Motion, the arguments of counsel at the
14 hearing, (if any), and good cause appearing, the Court orders as follows:

15 1. The Receiver's Motion is granted, in its entirety.

16 2. The Receiver is authorized to settle with MCC pursuant to the terms of
17 the Settlement Agreement.

18 3. Pursuant to the Settlement Agreement, MCC has waived and released
19 any claim to the proceeds (the "Sarasota Funds") from sale of the Sarasota, Florida
20 property [Dkt. 142]. The Receiver is therefore permitted to transfer the sequestered
21 Sarasota Funds to the Receiver's general account.

22 4. The Receiver's proposed transfer of the Lincoln Red Rock Property, the
23 payment of \$312,000 in commissions to the Broker as described in the Motion, and
24 payment of the break-up fee of \$175,000 to Carefield SH Management are approved
25 and authorized.

26 5. Specifically, the Court authorizes the transfer of the Lincoln Red Rock
27 Property to MCC, pursuant to the terms of the Purchase and Sale Agreement and
28 Joint Escrow Instructions between the Receiver and MCC (the "PSA").

1 6. In accordance with the terms of the Settlement Agreement and PSA and
2 without limiting its terms, MCC shall purchase the Lincoln Red Rock Property on
3 an "as-is, where-is" basis, without any representations or warranties whatsoever by
4 the Receiver, his agents and/or attorneys including, without limitation, any
5 representations or warranties as to the condition of the Lincoln Red Rock Property,
6 except as expressly set forth in the PSA. MCC shall be deemed to be solely
7 responsible for its own due diligence, including, but not limited to, inspection of the
8 condition of and title to the Lincoln Red Rock Property, and shall be deemed not to
9 have relied upon any representation or warranty of the Receiver, except as expressly
10 set forth in the PSA.

11 7. In the performance of his obligations pursuant to this Order, the
12 Receiver's liability in connection with the PSA and the sale of the Lincoln Red Rock
13 Property shall be limited to the assets of the receivership estate established in the
14 above-entitled action. Neither the Receiver nor his agents and/or attorneys shall
15 have any personal liability for claims arising out of or relating to the performance of
16 any actions necessary to complete the sale as provided herein.

17 8. Provided he obtains the written consent of MCC, the Receiver is
18 authorized to amend or otherwise modify the terms of the PSA and any other
19 agreements or instruments reasonably necessary to effectuate the sale of the Lincoln
20 Red Rock Property as provided herein, in the event the Receiver determines, in his
21 sole discretion and reasonable business judgment, that such amendment or
22 modification is reasonable and necessary, will benefit the receivership estate, avoid
23 the imposition of liability upon the receivership estate, or is required pursuant to the
24 terms of the PSA or any other amendment or modification thereto, provided that
25 such amendment or modification does not change the material terms of the contract.

26 9. The Receiver is hereby authorized to take all actions and execute all
27 documents necessary to consummate and otherwise effectuate the transfer of the
28 Lincoln Red Rock Property to MCC. Specifically, the Receiver is hereby authorized

1 to execute and acknowledge a receiver's deed conveying title to the Lincoln Red
2 Rock Property to MCC ("Receiver's Deed"), substantially in the form of Exhibit B
3 to the PSA, to effectuate the conveyance and cause the Receiver's Deed to be
4 recorded on the date on which close of escrow occurs pursuant to the terms of the
5 PSA, or as otherwise approved by the Receiver and MCC.

6 10. The close of escrow ("Close of Escrow") for the transfer of the Lincoln
7 Red Rock Property shall occur as soon after the entry of this Order as soon as
8 reasonably practicable, or as provided by the PSA

9 11. The Receiver is hereby authorized to pay from the proceeds of the sale
10 of the Lincoln Red Rock Property, at the Close of Escrow: (a) all unpaid property
11 taxes per the pro-rations, if any, in the PSA; (b) all other closing costs and
12 commissions that are the responsibility of the Seller as set forth in the PSA and/or
13 related final closing statement; (c) any out-of-pocket expenses the Receiver incurs in
14 connection with the sale; and (d) any other expenses set forth in the PSA that are the
15 responsibility of the Receiver as seller thereunder.

16 12. This Court retains jurisdiction over any dispute involving the Receiver
17 in connection with the sale of the Lincoln Red Rock Property.

18 13. A certified copy of this Sale Order may be recorded concurrently with
19 the Receiver's Deed or at any time before the Close of Escrow, provided, however,
20 that failure to record this Sale Order shall not affect the enforceability of this Sale
21 Order, the enforceability and viability of the PSA, or the validity of the Receiver's
22 Deed.

23 14. The Mortgage, Assignment of Leases and Rents, Security Agreement
24 and Fixture Filing dated as of December 2, 2016, and recorded in December 6,
25 2016, as Instrument No. 2016150091 in favor of MCC U.S., Inc. ("MCC
26 Mortgage") and all associated liens and encumbrances shall be released from the
27 sale proceeds from the sale of the Sarasota Property. MCC also is deemed to have
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1 no further claims against the Receiver or the receivership estate, except as may arise
2 out of the Settlement Agreement or PSA.

3 15. Any licensed title insurer may rely on this Sale Order as authorizing the
4 Receiver to transfer title to the Lincoln Red Rock Property.

5 **IT IS SO ORDERED.**



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7 Dated: April 16, 2018

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

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