

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 21-61176-CIV-SINGHAL

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PROPERTY INCOME INVESTORS, LLC,
EQUINOX HOLDINGS, INC.
PROPERTY INCOME INVESTORS 26, LLC
PROPERTY INCOME INVESTORS 304, LLC,
PROPERTY INCOME INVESTORS 201, LLC,
PROPERTY INCOME INVESTORS 3504, LLC,
PROPERTY INCOME INVESTORS 1361, LLC,
PROPERTY INCOME INVESTORS 4020, LLC,
PROPERTY INCOME INVESTORS 9007, LLC,
PROPERTY INCOME INVESTORS 417, LLC,
PROPERTY INCOME INVESTORS 4450, LLC,
PROPERTY INCOME INVESTORS 3050, LLC,
LARRY B. BRODMAN and ANTHONY
NICOLSI (f/k/a ANTHONY PELUSO),

Defendants.

**RECEIVER’S UNOPPOSED MOTION TO APPROVE PRIVATE
SALE OF REAL PROPERTY LOCATED AT
1361 SE 4TH STREET, DEERFIELD BEACH, FLORIDA 33441**

Miranda L. Soto, Esq., as Receiver and through the undersigned counsel, files this Unopposed Motion seeking Court approval for the proposed sale of the real property owned by Receivership Entity, Property Income Investors 1361, LLC (“**PII 1361**”), and located at 1361 SE 4th Street, Deerfield Beach, Florida 33441 (the “**Property**”). As further detailed below, the Receiver has entered into the Purchase and Sale Agreement, attached as **Exhibit 1**, to sell the Property on a strictly “as is” basis for \$835,000.00 to Eric DeSimone (the “**Purchaser**”). The Receiver seeks entry of an Order in substantially the form as **Exhibit 2** approving the proposed sale and the associated sale procedures required pursuant to 28 U.S.C. § 2001, and submits that

the proposed sale is commercially reasonable and will result in a fair and equitable recovery for the Receivership Estate. After subtracting amounts for satisfaction of a Tax Certificate that was issued because the 2020 property taxes were not timely paid and payment of standard closing costs and the current pro-rated 2021 property taxes, the Receiver anticipates that the proposed sale will generate gross proceeds of approximately \$780,000 for the Receivership Estate. The proposed sale price is also over 30% higher than the price previously paid in 2017 by PII 1361. In support, the Receiver states as follows:

I. RELEVANT BACKGROUND

On June 7, 2021, Plaintiff, Securities and Exchange Commission (“**Plaintiff**”), filed the *Complaint for Injunctive and Further Relief* (the “**Complaint**”) (Doc. 1) in the United States District Court for the Southern District of Florida against Defendants, Larry Brodman, Anthony Nicolosi f/k/a Anthony Peluso, and the Receivership Entities. On June 15, 2021, the Court entered an Order appointing Miranda L. Soto as Receiver over the Receivership Entities (the “**Order Appointing Receiver**”) (Doc. 10). Pursuant to the Order Appointing Receiver, the Receiver was directed to “take immediate possession of all real property of the Receivership Entities,” and to “take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate...” *Id.* ¶¶ 16, 32. The Order Appointing Receiver also authorized the Receiver to make “payments and disbursements and incurring expense as may be necessary or advisable in the ordinary course of business in discharging Receiver’s duties.” *Id.* ¶ 7(d).

The Receiver subsequently identified seven multifamily residential properties in South Florida that were collectively owned by certain of the Receivership Entities (the “**Receivership**

Properties”). The Receiver and her counsel immediately took steps to secure and evaluate each of the Receivership Properties, including communicating with current tenants about their continuing obligation to comply with their lease requirements, ensuring the existence of insurance coverage, and identifying any existing liens or encumbrances on the Receivership Properties. After obtaining Court approval to retain a property management company to oversee and maintain the Receivership Properties, the Receiver solicited proposals from real estate brokers to assist her with the marketing and liquidation of the Receivership Properties. *See* Doc. 18. The Receiver subsequently received proposals from and interviewed four real estate brokers, ultimately selecting Daniel Otten with Local Real Estate Co. (the “**Listing Agent**”) based on the proposed marketing strategy and discounted commission structure. The Receivership Properties were listed for sale in September 2021.

A. Procedures Applicable to the Sale of Real Property

On September 13, 2021, the Receiver filed her Liquidation Plan setting forth her proposed plan to liquidate and distribute assets recovered for the Receivership Estate (Doc. 24). With respect to real property assets, the Liquidation Plan referenced Paragraphs 32 and 33 of the Order Appointing Receiver authorizing the Receiver to engage the services of a real estate broker and to list any real property asset for sale in the manner the Receiver deems most beneficial to the Receivership Estate. *Id.* at pp. 4-8. The Liquidation Plan indicated that the Receiver will use industry-standard and commercially reasonable efforts to market any potential property and subsequently seek the Court’s approval of any offer the Receiver determines to accept pursuant to 28 U.S.C. § 2001.

Specifically, 28 U.S.C. § 2001(b) (“**Section 2001(b)**”) establishes the following procedures for a private sale of real property:

After a hearing, of which notice to all interested parties shall be given by publication or otherwise as the court directs, the court may order the sale of such realty or interest or any part thereof at private sale for cash or other consideration and upon such terms and conditions as the court approves, if it finds that the best interests of the estate will be conserved thereby. Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in different localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale. 28 U.S.C. § 2001(b).

As discussed further below, courts routinely exercise their inherent discretion to administer and determine the appropriate relief in an equity receivership by finding that a Receiver has sufficiently complied with, or authorizing a Receiver to deviate from, the requirements of Section 2001(b). This includes finding that a receiver has satisfied Section 2001(b)'s appraisal requirement by obtaining three broker price opinions from licensed real estate professionals given that the property to be sold was involved in a competitive bidding process on the open market and where the Receiver has been represented by a Listing Agent.

B. The Property, the Receiver's Marketing Efforts, and the Proposed Sale

The Property was purchased by Receivership Entity PII 1361 in October 2017 for \$635,000.00, using funds raised from investors. The Property is a one-story multi-family residential property consisting of five units, with four of those units currently leased out to tenants. After being engaged by the Receiver, Mr. Otten and his team visited the Property, prepared a pricing and listing analysis and created necessary marketing materials. The Receiver then approved the listing of the Property for \$850,000.00, and the listing was advertised through

multiple platforms. The marketing materials were also published on the Receiver's public website at www.propertyreceivership.com/assets-for-sale for all potential buyers and investors to freely review. In addition to listing the Property on several commercial real estate listing websites, Mr. Otten and his team also circulated the listing to an internal network of additional potential buyers.

The Property has now been listed on the market for over a month, and the Receiver ultimately received and reviewed seven offers for the Property ranging from \$643,000.00 to \$851,000.00. Although Purchaser's offer was slightly lower than the highest offer of \$851,000.00, the Receiver ultimately accepted Purchaser's cash offer of \$835,000.00 given that (i) Purchaser's offer was a cash offer and would close more quickly than the higher \$851,000.00 offer, which was subject to financing, and (ii) Purchaser's offer would actually yield the highest net proceeds for the Receivership Estate because Purchaser is not represented by a broker and thus the Receiver is only paying a 2.5% commission. Indeed, proceeding with Purchaser's offer and the reduced 2.5% commission is the equivalent of having sold the Property for approximately \$857,000.00 if a separate broker was involved and thus the sale was subject to the negotiated and discounted 5% commission rate split.

After arms-length negotiations over purchasing, inspection, and other material terms, the Receiver and Purchaser both executed the Purchase and Sale Agreement, and Purchaser subsequently timely deposited \$50,000.00 as earnest money with a designated escrow agent. The Purchase and Sale Agreement provides that the sale of the Property is contingent upon Court approval as well as the satisfaction of the requirements set forth in 28 U.S.C. § 2001.

Given the higher cost of an appraisal as well as the Receiver's understanding that there was widespread experience in the industry with delays in obtaining appraisals of properties in South

Florida due to strong recent real estate market activity, the Receiver obtained three broker price opinions from three disinterested licensed real estate professionals (collectively, the “**Valuations**”), which are attached hereto as **Composite Exhibit 3**. A Broker Price Opinion (“**BPO**”) is a written analysis prepared by a licensed real estate professional who provides an estimated market price for a specific piece of real property based upon, among other things, a site inspection and a comparison to similar completed and current property listings. While a BPO typically costs between \$100 and \$200, an appraisal (which includes scheduling an interior inspection) can cost between \$750 and \$1,500 for a residential multifamily property. As the Receiver used the services of a Listing Agent to list the Property through multiple platforms in a competitive process that was widely publicized and generated multiple competing offers over the course of the month since the Property was listed for sale, the Receiver elected to obtain BPO’s to satisfy Section 2001(b) which generated significant cost savings for the Receivership Estate.¹ Courts regularly approve a receiver’s private sale of real estate where BPO’s were obtained to comply with Section 2001(b). *See, e.g., SEC v. Equialt LLC, et al.*, Case No. 8:20-cv-00325, Doc. 189 (M.D. Fla. 2020) (approving sale of real estate based on three BPO’s); *CFTC v. Oasis International Group, Limited, et al.*, Case No. 8:19-cv-886, Doc. 330 (M.D. Fla. 2020) (same); *Stooksbury v. Ross*, 2014 WL 11638563, at *2 (E.D. Tenn. 2014) (approving request to waive requirement to obtain appraisals given Court’s discretion to determine appropriate relief in receivership and fact that property was for sale on open market and exceeded property assessor’s appraised value.)

¹ As the Receiver currently has seven properties she is in the process of selling, obtaining three appraisals for each of the properties could require her to spend **up to \$30,000** in Receivership funds and also delay the process to obtain court approval of the sales. An appraisal could also potentially lead to lower valuations of the Property if there are any identified issues during the corresponding interior inspection.

The Valuations opined that a reasonable market value for the Property would be between \$740,000.00 and \$805,000.00. The proposed \$835,000.00 sale price **exceeds the opined market price in each of the Valuations** as well as the Broward County Property Appraiser's 2021 price assessment of \$449,550.00 and accordingly, the Receiver submits that the proposed sale price is fair and reasonable. Pursuant to Section 2001(b), which requires that a sale be at least 67% of the average of the Valuations, the sale price of \$835,000.00 is substantially greater than \$512,550.00, which is two-thirds of the average of the Valuations.² In addition, the sale price is higher than the approximate tax-assessed value and also over 30% higher than the price previously paid by PII 1361.

C. Encumbrances on the Property to be Resolved at Closing

The Receiver's investigation revealed that PII 1361 failed to timely pay the assessed 2020 property taxes, which resulted in the issuance of a Tax Certificate in the amount of \$11,861.18 on May 25, 2021.³ The Receiver intends to redeem the Tax Certificate at closing. Additionally, as a result of the assignment of the current leases to the Purchaser, the Receiver will need to transfer at closing any tenant security deposits that were previously deposited with the Receivership Entities. Given the Receiver's understanding that tenant security deposits were not properly segregated or maintained, the Receiver anticipates that a credit will be made to the Purchaser at closing to account for the current security deposits. With the exception of the Tax Certificate and security deposit issue, the Receiver is not aware of any other liens or

² \$740,000 (BPO 1) + \$750,000 (BPO 2) + \$805,000 (BPO 3) = \$2,295,000. The average of those Valuations is \$765,000.00. 67% of that amount is \$512,550.00.

³ A Tax Certificate is an interest-bearing first lien representing unpaid delinquent real estate property taxes which are sold through a public auction to the buyer offering the lowest rate of interest.

encumbrances on the Property. In the event that any administrative liens or other encumbrances are discovered during a title search, to the fullest extent possible, they will be resolved efficiently and routinely at closing.⁴

D. Proposed Publication and Overbid Procedures

Section 2001(b) provides that the terms of a Receiver's proposed private sale of real property "shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation." The Receiver proposes that, for one day at least ten days prior to confirmation of any sale, she publish the terms of the sale of the Property in the *Sun-Sentinel*, which is regularly issued and of general circulation in the district where the Property is located (the "**Newspaper**"). A copy of the proposed notice (the "**Notice**") is attached hereto as **Exhibit 4**. The Receiver will also publish this Motion (including the Notice) as well as any Order entered on the Motion by the Court on her website – www.propertyreceivership.com – within two (2) business days of the Court's entry of any Order on this Motion.

Section 2001(b) also provides that a proposed private sale of real property cannot be confirmed if a higher "bona fide" offer is subsequently made "under conditions prescribed from the Court." The Receiver respectfully proposes that the following overbid procedures govern any third party's submission of a formal bona fide offer to purchase the Property after publication and notice and during the ten-day statutory window:

- Any party wishing to submit an overbid in excess of the current purchase price (an "**Overbidder**") must provide Receiver's Listing Agent with a qualified, written bona fide **CASH** offer on or before the 10th day following publication of the Notice in the Newspaper (the "**Overbid Deadline**") consisting of an offer equal to or greater than nine hundred eighteen thousand and five hundred dollars and 00/100 cents

⁴ There is also the possibility that the Receiver could be entitled to a partial refund of the recent premium payment to renew the property and casualty insurance policy.

(\$918,500.00) (the “**Written Overbid**”) (reflecting at least a ten percent (10%) increase over the purchase price set forth in the Purchase and Sale Agreement);

- Any Overbidder must then provide the Receiver’s Listing Agent with an earnest money deposit consisting of 3% of the proposed purchase price (the “**Deposit**”) to be delivered to the Listing Agent via certified check or wire transfer within 48 hours of the Written Overbid being submitted, with the Deposit applied to and credited towards the final purchase price if Overbidder is selected by the Receiver as the ultimate purchasing party. In the event Overbidder is not selected by the Receiver as the ultimate purchasing party, the Deposit shall be fully refundable;
- Any Overbidder must timely provide any and all financial and banking information required by the Receiver to demonstrate, in the Receiver’s sole opinion and judgment, the prospective Overbidder’s ability to complete and close a **cash purchase** of the Property, including but not limited to a Bank Comfort Letter and/or “Proof of Funds” confirmation;
- Any Overbidder submitting a bona fide offer to purchase the Property to the Receiver shall also be deemed to have (i) completed and/or have waived all inspections of the Property, (ii) waived and/or removed all contingencies in favor of the buyer under any Purchase and Sale Agreement including without limitation, any contingencies pertaining to inspection of title, and (iii) agreed to timely execute a Purchase and Sale Agreement in substantially the same form, and with all of the same governing terms and conditions, as exist in the current Purchase and Sale Agreement attached as Exhibit 1;
- In the event there is an Overbidder (or multiple Overbidders) who submits a timely bona fide offer (or offers) on or before the Overbid Deadline, the Receiver shall negotiate in good faith and confidentially with any Overbidder(s) as well as the original Purchaser. In the Receiver’s sole discretion and business judgment, communicated strictly through her Listing Agent, this may result in the Receiver’s request for all relevant parties to submit a confidential “best and final” offer and purchase terms. Upon the receipt of all timely best and final offers, and in the Receiver’s sole discretion and through her exercise of business judgment, the Receiver shall choose a final purchaser that she deems to have provided the offer that is in the best interests of the Receivership Estate, submit notice to the Court, and proceed with closing the sale of the Property to the final purchaser without the need for any further order from this Court⁵; and
- In the event that the Receiver is not provided with any timely bona fide offer(s) on or before the Overbid Deadline, the Receiver will notify the Court and proceed with closing the sale of the Property to Purchaser as set forth in the Purchase and Sale Agreement without the need for any further order from this Court.

⁵ In the event the final purchaser is not Purchaser, the Receiver will return Purchaser’s earnest money deposit.

The Receiver believes these proposed procedures both comply with Section 2001(b) and also provide for an efficient roadmap to complete the sale of the Property.

III. ARGUMENT

A. Legal Standard

Federal courts have broad powers and wide discretion to determine relief in an equity receivership, including the authority to authorize the sale or transfer of real estate within a receivership. *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court's wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *SEC v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). A court imposing a receivership assumes custody and control of all assets and property of the receivership, and it has broad equitable authority to issue all orders necessary for the proper administration of the receivership estate. *See SEC v. Credit Bancorp Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002); *SEC v. Wencke*, 622 F.2d 1363, 1370 (9th Cir. 1980).

The court may enter such orders as may be appropriate and necessary for a receiver to fulfill her duty to preserve and maintain the property and funds within the receivership estate. *See, e.g., Official Comm. Of Unsecured Creditors of Worldcom, Inc. v. SEC.*, 467 F.3d 73, 81 (2d Cir. 2006). Any action taken by a district court in the exercise of its discretion is subject to great deference by appellate courts. *See United States v. Branch Coal*, 390 F.2d 7, 10 (3d Cir. 1969). Such discretion is especially important considering that one of the ultimate purposes of a receiver's appointment is to provide a method of gathering, preserving, and ultimately liquidating assets to return funds to creditors. *See Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982) (court overseeing equity receivership enjoys "wide discretionary power" related to its "concern for orderly administration") (citations omitted).

Courts routinely approve a receiver's request to sell real property based on compliance with Section 2001. *See, e.g., U.S. v. Brewer*, Case No. 07-cr-90, Doc. 541 at *2 (M.D. Fla. May 12, 2009) (granting private sale of real property after compliance with Section 2001 requirements); *SEC v. Nadel*, Case No. 09-cv-00087, Doc. 1446 (M.D. Fla. October 28, 2020) (same); *FTC v. NPB Advertising, Inc. at al.*, Case No. 14-cv-01155, Doc. 158 (M.D. Fla. Aug. 1, 2017) (same). Courts have also exercised their discretion to approve the sale of real property based on substantial compliance with Section 2001, including cases where the receiver obtained less than three appraisals and where the property at issue was the subject of a competitive sale process in the open market and had received multiple bids. *See, e.g., SEC v. Patrick Kirkland et al.*, 2009 WL 1439087 (M.D. Fla. 2009) (finding substantial compliance with Section 2001(b)'s appraisal requirements based on a single appraisal); *SEC v. Global Online Direct, Inc.*, Case No. 1:07-CV-0767-WSD, Order Granting Receiver's Mot. For Order Authorizing the Sale of Certain Property (N.D. Ga. 2009) ("The Court hereby relieves the Receiver from the provisions of 28 U.S.C. §§ 2001-2002"); *SEC v. Nadel*, Case No. 9:09-cv-00087, Doc. 1370 (M.D. Fla. 2018) (granting private sale despite Receiver not obtaining appraisals); *Equialt LLC, et al.*, Case No. 8:20-cv-00325, Doc. 189 (M.D. Fla. 2020) (approving sale of real estate based on three BPO's); *Oasis International Group, Limited, et al.*, Case No. 8:19-cv-886, Doc. 330 (M.D. Fla. 2020) (same); *Ross*, 2014 WL 11638563, at *2 (E.D. Tenn. 2014) (approving request to waive requirement to obtain appraisals given Court's discretion to determine appropriate relief in receivership and fact that property was for sale on open market and exceeded property assessor's appraised value.)

B. The Court Should Approve the Proposed Sale and Overbid Procedures

As noted above, the Court may approve a private sale of real estate (the Property) under 28 U.S.C. § 2001 provided that:

- (a) The sale is for at least two-thirds of the average appraised value of the Property;
- (b) The appraised value of the Property was established by three disinterested appraisals of the Property;
- (c) The Court finds the sale serves the best interests of the Receivership Estate;
- (d) The terms of the proposed sale are published in a newspaper of general circulation as directed by the Court and at least ten days before confirmation; and
- (e) There is no bona fide offer made at least ten (10%) higher than the proposed sale price made under the Court's prescribed conditions.

The Receiver submits that the proposed sale and related sale, publication, and overbid procedures satisfy 28 U.S.C. § 2001 and that this Motion should be granted.

First, the Receiver has satisfied the appraisal and publication requirements by (i) presenting three Valuations of the Property prepared by disinterested individuals that are licensed real estate professionals, (ii) securing a sale price that is well in excess of the required two-thirds of the average of the Valuations of the Property; and (iii) proposing the publication of the proposed sale and its terms in the *Sun-Sentinel* for one day at least ten days prior to any sale. The Receiver has attached the three Valuations of the Property as Composite Exhibit 3. The proposed \$835,000.00 sale price satisfies Section 2001(b)'s appraisal requirement because it exceeds all three of the Valuations (and thus significantly exceeds \$512,550.00, which is two-thirds of the average of the three Valuations) and was obtained in a competitive process that was widely publicized and generated multiple competing offers. The Receiver has also attached her proposed Notice, attached as Exhibit 4, to be published in the *Sun-Sentinel* as directed by the Court. The Receiver requests that the Court approve the Receiver's terms as compliant with Section 2001(b)'s appraisal and publication requirements.

Second, the Receiver submits that she has proposed fair, equitable, and sufficient procedures in the event that a third party seeks to submit a bona fide offer as an Overbidder pursuant to Section 2001(b).

Third, the sale of the Property is in the best interest of, and will result in significant benefits to, the Receivership Estate. The Receiver has used her good faith and business judgment to realize what she believes is the highest price possible for the Property in an arm's length transaction with an independent third-party Purchaser and with the opportunity to receive a higher amount if a timely and qualified bona fide offer is submitted by, and ultimately accepted from, an Overbidder.

The Court's approval of the Property's sale will also benefit the Receivership Estate by relieving the Receiver from any further maintenance, costs, or expenses related to the Property. Other than the Tax Certificate and security deposit issues which will be resolved at closing, the Receiver is not aware of any lien or other encumbrance on the Property, and the sale of the Property free and clear of any such liens or encumbrances will result in the maximum benefit for the Receivership Estate.⁶ In sum, the Receiver submits that the proposed Purchase and Sale Agreement, including the proposed notice, overbid, and publication procedures, is compliant with the industry standard, is commercially reasonable, and is in the best interests of the Estate.

WHEREFORE, the Receiver respectfully requests that this Court enter an order substantially similar to the proposed order attached as **Exhibit 2**:

⁶ This Court's broad authority over the Receivership Estate includes the equitable power "to sell property free of liens, transferring the lien to the proceeds." *Seaboard Nat'l Bank v. Rodgers Milk Products Co.*, 21 F.2d 414, 416 (2nd Cir. 1927). "It has long been recognized that under appropriate circumstances, a federal court presiding over a receivership may authorize the assets of the receivership to be sold free and clear of liens and related claims." *Regions Bank v. Egyptian Concrete Co.*, 2009 U.S. Dist. LEXIS 111381 at *18-19 (E.D. Mo. Dec. 1, 2009) (citations omitted).

1. Accepting and taking judicial notice of the three attached Valuations of the Property attached as **Composite Exhibit 3**;
2. Approving and authorizing the Purchase and Sale Agreement attached as **Exhibit 1** to this Motion or any Purchase and Sale Agreement entered into with a successful Overbidder containing similar terms and conditions as the Purchase and Sale Agreement;
3. Approving and authorizing the form and manner of publication of the Notice attached as **Exhibit 4** to this Motion;
4. Approving and authorizing the private sale of the Property located at 1361 SE 4th Street, Deerfield Beach, Florida 33441 from the Receiver (on behalf of Receivership Entity Property Income Investors 1361, LLC) to Purchaser, or Overbidder if a bona fide and written offer to purchase the Property is received and ultimately accepted pursuant to the overbid procedures set forth above, and ordering the Receiver to transfer title to the Property to the Purchaser (or successful Overbidder) free and clear of liens, claims, encumbrances and other interests and without any further motion or Order from the Court;
5. Granting this Motion without a hearing if there is no objection; and
6. Granting any and all such other and further relief as may be just, proper, and equitable in carrying out the intent and purposes of this Motion.

LOCAL RULE 7.1(a)(3) CERTIFICATION

Pursuant to Local Rule 7.1(a)(3), the undersigned certifies that counsel for the Receiver conferred with counsel for the Commission and counsel for Defendants Anthony Nicolosi and Larry Brodman prior to filing this Motion. Counsel for the Commission has indicated they do not object to the requested relief, while counsel for Defendants Brodman and Nicolosi indicated their clients take no position on the requested relief.

Dated this 3rd day of **November**, 2021.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

/s/ Raquel A. Rodriguez

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Attorneys for Receiver

Miranda L. Soto

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2021, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to the following counsel of record:

Alice Sum, Esq.
Securities and Exchange Commission
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*Counsel for Plaintiff, Securities and
Exchange Commission*

Mark C. Perry, Esq.
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Fort Lauderdale, Florida 33308
*Counsel for Defendant, Anthony
Nicolosi, f/k/a Anthony Peluso*

I further certify that on November 3, 2021, a true and correct copy of the foregoing was sent via electronic mail to the following:

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/s/ Jordan D. Maglich
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