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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States Securities and Exchange
Commission,

Plaintiff,

v.

Jonathan Larmore, et al.,

Defendants, and

Michelle Larmore; Marcia Larmore;
CSL Investments, LLC;
MML Investments, LLC;
Spike Holdings, LLC;
and JMMAL Investments, LLC,

Relief Defendants.

No. CV-23-02470-PHX-DLR
ORDER

The Court having considered the Receiver’s Motion for orders: (I) approving (a) the Receiver’s engagement and compensation of Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”) as broker for the sale of real property located at 900 West Marion Avenue, Punta Gorda, Florida 33950, including all buildings, equipment, furniture and fixtures located thereon (the “Property”), owned by Receivership Entity,¹ 900 West Marion Avenue FL, LLC (“900 West Marion”), and (b) the proposed bidding and auction procedures (the “Sale Procedures”) for the sale of the Property; and (II) approving the sale of the Property to Harborview Property Holdings

¹ Capitalized undefined terms shall have the meanings ascribed to them in the Motion.

1 LLC (“Stalking Horse Buyer”) pursuant to the Asset Purchase Agreement dated as of
2 November 11, 2024 (the “Stalking Horse Agreement”) or such other bidder that submits a
3 higher and better offer at a public auction, free and clear of all liens, claims,
4 encumbrances and interests (the “Motion”); and upon the Declaration of Randall
5 Coxworth in Support of the Motion (the “Coxworth Declaration”) (Doc. 286); there being
6 no responses or objections filed relating to the Motion; and upon finding that due and
7 sufficient notice of the Motion has been given and no other or further notice need be
8 given; and after due deliberation and it appearing that the relief sought in the Motion is in
9 the best interest of the Receivership Estate, its creditors, and other parties in interest,

10 **IT IS HEREBY FOUND, DETERMINED, AND CONCLUDED THAT:**

11 1. This Court has jurisdiction over this matter, the above-captioned defendants
12 and relief defendants, and over all property of the Receivership Estate.

13 2. Proper, timely, adequate, and sufficient notice of the Motion has been
14 provided, such notice was sufficient and appropriate under the particular circumstances,
15 and no other or further notice of the Motion or relief sought in the Motion is necessary or
16 required.

17 3. A reasonable opportunity to object or be heard regarding the requested
18 relief in the Motion and this Order has been afforded to all interested parties, including,
19 without limitation, all parties to this action and all persons or entities known to the
20 Receiver that have or may have an interest in any portion of the Property.

21 4. The Receiver has the power and authority to sell the Property, or any
22 portion of the Receivership Estate, at a public sale pursuant to and in accordance with the
23 Sale Procedures, free and clear of liens, claims, and encumbrances, with such liens,
24 claims, and encumbrances attaching to the proceeds of such sale with the same validity
25 and in the same order of priority.

26 5. Upon the Receiver’s appointment and after investigating the financial
27 condition of the Receivership Estate, the Receiver undertook a comprehensive effort to
28 solicit interest from potential purchasers for the Property.

1 6. The Receiver’s entry into the Marcus & Millichap Exclusive
2 Representation Agreement (the “M&M Agreement”) annexed as an exhibit to the
3 Coxworth Declaration, and the underlying retention of Marcus & Millichap, as a
4 disinterested professional, is in the best interest of the Receivership Estate and its
5 creditors.

6 7. The Receiver’s existing and continued marketing efforts, combined with
7 the publication set forth herein is reasonable and sufficient.

8 8. The Receiver has demonstrated a sufficient basis and compelling
9 circumstances requiring the entry of this Order, the selection of the Stalking Horse Buyer,
10 the Break-up Fee provided to the Stalking Horse Buyer, and the proposed sale of the
11 Property in accordance with the Sale Procedures, and such actions: (a) are appropriate
12 exercises of the Receiver’s reasonable business judgment; (b) are in the best interest of
13 the Receivership Estate and its creditors; and (c) meet the requirements of and are
14 consistent with 28 U.S.C. §§ 2001 and 2002.

15 9. The Receiver’s authorization to pay the Break-up Fee is reasonable under
16 the circumstances as an essential inducement and condition relating to the Stalking Horse
17 Buyer’s entry into, and continuing obligations under the Stalking Horse Agreement.

18 10. The Receiver’s promise to pay the Break-up Fee, which has induced the
19 Stalking Horse Buyer to submit its bid that will serve as a minimum or floor bid on which
20 the Receiver can rely, provides a material benefit to the Receivership Estate, by
21 increasing the likelihood that the best possible purchase price for the Property will be
22 received. The Break-up Fee may be paid by the Receiver without further hearing or
23 proof upon closing of a sale of the Property to any bidder other than the Stalking Horse
24 Buyer who submits a higher and better offer at the Auction.

25 11. The Sale Procedures are reasonable, non-collusive, negotiated in good faith,
26 substantively and procedurally fair, and will enable the Receiver to obtain the highest
27 value for the Property.

28

1 12. The Receiver may sell the Property in accordance with the Sale Procedures.
2 **NOW, THEREFORE, BASED UPON THE FOREGOING FINDINGS AND**
3 **THE RECORD BEFORE THIS COURT, IT IS HEREBY**

4 **ORDERED** that the Motion is GRANTED as set forth in this Order; and it is
5 further

6 **ORDERED** that any and all objections to the Motion concerning the Sale
7 Procedures and relief granted in this Order that have not been withdrawn, waived,
8 resolved, sustained, or settled, are expressly denied and overruled in their entirety; and it
9 is further

10 **ORDERED** that the M&M Agreement as set forth in Exhibit A to the Coxworth
11 Declaration is approved; and it is further

12 **ORDERED** that the Stalking Horse Agreement as set forth in Exhibit B to the
13 Coxworth Declaration is approved; and it is further

14 **ORDERED** that the Sale Procedures, as set forth in Exhibit A to this Order are
15 approved in their entirety; and it is further

16 **ORDERED** that the notice of auction and sale, substantially in the form as set
17 forth in Exhibit B (the “Notice”) to this Order, is hereby approved; and it is further

18 **ORDERED** that the Receiver may proceed to sell the Property, in accordance
19 with the Sale Procedures; and it is further

20 **ORDERED** that the Receiver may proceed to sell the Property free and clear of
21 liens, claims, encumbrances, and other interests at a public auction to be held by Zoom in
22 accordance with and subject to the Sale Procedures on February 3, 2025 at 10:00 a.m.
23 (Phoenix Time); and it is further

24 **ORDERED** that the Stalking Horse Buyer’s deposit (as provided in the Stalking
25 Horse Agreement) shall be held in escrow and shall not constitute or be deemed to
26 constitute property of any receivership estate or the Receiver, and the Receivership Estate
27 and Receiver shall have no interest of any kind (equitable or otherwise) in the deposit
28 unless and until such deposit is actually unconditionally paid or payable in accordance

1 with the Stalking Horse Agreement, and no liens, claims or encumbrances shall attach to
2 the deposit; and it is further

3 **ORDERED** that the Sale Hearing shall be held telephonically or as otherwise
4 ordered by the Court, on **February 4, 2025, at 2:00 p.m.** (Phoenix Time); and it is
5 further

6 **ORDERED** that any objection on any basis to the proposed sale of the Property
7 must be filed in writing with the Court no later than 10:00 a.m. (Phoenix time) February
8 4, 2025 (the “Objection Deadline”) and served on counsel to the Receiver, Archer &
9 Greiner, P.C., Attn: Allen G. Kadish and Harrison H.D. Breakstone, 1211 Avenue of the
10 Americas, New York, New York 10036; and it is further

11 **ORDERED** that the Receiver shall cause his retained professionals (a) to provide
12 notice, substantially in the form of the Notice, to (i) all known parties having an interest
13 in the Property, including StanCorp Mortgage Investors, LLC; (ii) counsel to the Stalking
14 Horse Buyer; (iii) the parties set forth on the certificate of service of the Motion and any
15 other party that has entered an appearance in this case or otherwise requested notice in
16 this case; and (iv) all of the persons or entities the Receiver has identified as (A) having
17 an interest in the Property or (B) potentially interested in acquiring the Property; and (b)
18 to publish a notice of Auction and Sale Hearing with The Daily Sun once a week for at
19 least four (4) weeks prior to the proposed Auction, which publication shall be deemed
20 due, timely, good, and sufficient notice of the entry of this Order, the Sale Order and all
21 proceedings to be held in accordance with this Order; and it is further

22 **ORDERED** that any person or entity seeking to participate as a bidder at the
23 Auction shall comply with the Sale Procedures; and it is further

24 **ORDERED** that each Qualified Bidder participating at the Auction will be
25 required to confirm that it has not engaged in any collusion with respect to the bidding on
26 or sale of the Property; and it is further

27 **ORDERED** that under no circumstances shall any prospective purchaser have any
28 claims at law or equity against the Receiver, his professionals or the Receivership Estate

1 arising out of their participation or involvement in the Auction or the purchase and sale of
2 the Property; and it is further

3 **ORDERED** that this Order shall become effective immediately upon its entry;
4 and it is further

5 **ORDERED** that this Court shall retain jurisdiction over any and all matters or
6 disputes arising from or related to this Order or its enforcement.

7 Dated this 3rd day of January, 2025.

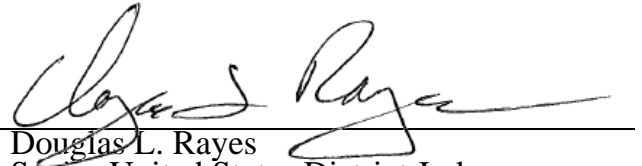
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12 Douglas L. Rayes
13 Senior United States District Judge
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EXHIBIT A

SALE PROCEDURES

900 WEST MARION AVENUE, PUNTA GORDA, FLORIDA

Allen D. Applbaum, as receiver (the “Receiver”) for ArciTerra Companies, LLC and related entities including, but not limited to 900 West Marion Avenue FL, LLC (“900 West Marion”), submits the following sale and bidding procedures (the “Sale Procedures”) for the sale of real property owned by 900 West Marion and located at 900 West Marion Avenue, Punta Gorda, Florida, including all buildings, equipment, furniture and fixtures (the “Property”), free and clear of all liens, claims, encumbrances and interests, as may be approved by the United States District Court for the District of Arizona.

There will be a public Auction to submit and accept bids for the Property held by Zoom on February 3, 2025, beginning at 10:00 a.m. (Phoenix Time). Instructions for attending the Auction will be delivered to Qualified Bidders (as defined below) by Marcus & Millichap Real Estate Investment Services, as broker for the Receiver (“Marcus & Millichap”).

The Receiver has entered into an Asset Purchase Agreement with Harborview Property Holdings LLC (the “Stalking Horse Buyer”), dated November 11, 2024 (the “Stalking Horse Agreement”) providing for a purchase price for the Property of Three Million Fifty Thousand and 00/100 Dollars (\$3,050,000.00) (the “Purchase Price”).

Only “Qualified Bidders” shall be permitted to attend the Auction and submit bids for the Property. A “Qualified Bidder” is a prospective purchaser who, no later than 10 days prior to the Auction:

- a. Submits a written bid proposal to Marcus & Millichap that (1) is accompanied by a fully executed asset purchase agreement for the Property for the Purchase Price, plus the Minimum Initial Overbid Amount (defined below), and with terms substantially similar in all material aspects to the terms of the Stalking Horse Agreement and otherwise acceptable to the Receiver in his sole discretion (a “Qualified Bid PSA”), and (2) confirms such prospective purchaser’s ability to close and consummate the transaction no later than thirty-five (35) days of entry of the Sale Order.
- b. Provides evidence, in a form reasonably acceptable to the Receiver, that the prospective purchaser has funds immediately available to pay the Purchase Price for the Property, plus the Minimum Initial Overbid Amount.

- 1 c. Submits a good faith deposit of five percent (5%) of the amount bid by such
2 prospective purchaser (the “Deposit”) by wire transfer or certified bank check to
3 be held in escrow by First Chicago Title Company. Deposit instructions will be
4 provided upon request to Marcus & Millichap or the Receiver’s undersigned
5 counsel. The Deposit of each prospective purchaser that complies with
6 subsections a. and b. above (each, a “Qualified Bidder”) that is not determined
7 at the Auction to have submitted the Successful Bid (as defined below) or the
8 Back Up Bid (as defined below) shall be irrevocable and non-refundable until
9 such time as the Auction concludes or the Receiver receives and accepts a higher
10 or better bid at the Auction. The Deposit submitted by a Qualified Bidder that
11 submits the Back Up Bid shall be irrevocable and nonrefundable until the closing
12 of the sale of the Property to the Successful Bidder.
- 13 d. The Stalking Horse Buyer is Deemed a Qualified Bidder: Notwithstanding the
14 bidding requirements above, the Stalking Horse Buyer is deemed a Qualified
15 Bidder.
- 16 e. Minimum Initial Overbid and Subsequent Overbids: All initial overbids must be
17 at least \$500,000 in excess of the Purchase Price (the “Minimal Initial Overbid
18 Amount”). Subsequent overbids shall be in increments of at least \$50,000 above
19 the Minimal Initial Overbid Amount and subsequent higher bids.
- 20 f. Bidding at the Auction: The Auction shall continue until there is only one bid
21 made by a Qualified Bidder (a “Qualified Bid”) that the Receiver, in consultation
22 with Marcus & Millichap and his other professionals, determines is the highest
23 and best Qualified Bid (the “Successful Bid”). The Receiver shall also
24 determine which Qualified Bid is the second highest and best Qualified Bid (the
25 “Back Up Bid”). To the extent the Stalking Horse Buyer Purchase Price is the
26 second highest and best Qualified Bid it shall be the Back Up Bid.
- 27 g. Due Diligence. All Qualified Bidders will be permitted to conduct due diligence
28 on the Property, including via a review of the due diligence materials prepared
by Marcus & Millichap, prior to the Auction.
- h. No Contingencies. The sale to any Qualified Bidder shall not be subject to any
contingencies, including without limitation, for financing, due diligence, or
inspection.
- i. As Is/Where Is Purchase. The sale to any Qualified Bidder shall be on an "AS-
IS, WHERE-IS" basis, with no representations or warranties made by the
Receiver, his professionals, or the Receivership Entities.

EXHIBIT B

SALE NOTICE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Securities and Exchange Commission,

Plaintiff,

v.

Jonathan Larmore; ArciTerra Companies,
LLC; ArciTerra Note Advisors II, LLC;
ArciTerra Note Advisors III, LLC;
ArciTerra Strategic Retail Advisor, LLC;
and Cole Capital Funds, LLC,

Defendants, and

Michelle Larmore; Marcia Larmore;
CSL Investments, LLC;
MML Investments, LLC;
Spike Holdings, LLC;
and JMMAL Investments, LLC,

Relief Defendants.

Case No. 23-cv-02470-DLR

**NOTICE OF PUBLIC SALE OF
PROPERTY LOCATED AT 900
WEST MARION, PUNTA GORDA,
FLORIDA**

TO ALL PARTIES IN INTEREST:

Notice is hereby given that Allen D. Applbaum, as Receiver for ArciTerra Companies, LLC and related entities, including 900 West Marion Avenue FL, LLC (“900 West Marion”), intends to sell, through his broker, Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”), the real property owned by 900 West Marion and located at 900 West Marion Avenue, Punta Gorda, Florida, including all buildings, equipment, furniture and fixtures located thereon (the “Property”), free and clear of all liens, claims, interests and encumbrances (the “Sale”).

By this Notice, the Receiver is soliciting higher and better offers for the Property by means of an Auction, which shall be governed by the terms and conditions of the order

1 establishing sale and bidding procedures approved by the United States District Court for
2 the District of Arizona (the “Court”).

3 OBJECTIONS, if any, to the Sale or to final approval of the proposed Sale of the
4 Property must be filed in writing with the Clerk of the Court on or before February 3, 2025
5 (the “Objection Deadline”). A copy of the objection must also be served on counsel to the
6 Receiver, Archer & Greiner, P.C., Attn: Allen G. Kadish and Harrison H.D. Breakstone,
1211 Avenue of the Americas, New York, New York 10036, so as to be received by the
Objection Deadline.

7 If offers by qualified bidders are timely received, Marcus & Millichap will conduct
8 an auction by Zoom on February 3, 2025 at 10:00 a.m., Phoenix Time. Instructions for
9 attending the Auction will be delivered by Marcus & Millichap to all qualified bidders.

10 A FINAL HEARING on the Sale will take place on February 4, 2025 at __:00 a.m.,
11 Phoenix Time, telephonically or as otherwise ordered by the Court, before the Honorable
Douglas L. Rayes.

12 Please be advised that any of the foregoing dates may be changed by the Court
13 without further notice.

14 If you have any questions regarding or would like copies of materials relating to the
15 information in this Notice or the Sale, please make such request in writing to Counsel for
16 the Receiver, Archer & Greiner, P.C., 1211 Avenue of the Americas, New York, New York
10036 Attn: Allen G. Kadish and Harrison H.D. Breakstone or visit the Receiver’s website
17 at www.arciterrareceivership.com.

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EXHIBIT B

SALE NOTICE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Securities and Exchange Commission,

Plaintiff,

v.

Jonathan Larmore; ArciTerra Companies,
LLC; ArciTerra Note Advisors II, LLC;
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Defendants, and

Michelle Larmore; Marcia Larmore;
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MML Investments, LLC;
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Relief Defendants.

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10036 Attn: Allen G. Kadish and Harrison H.D. Breakstone or visit the Receiver’s website
17 at www.arciterrareceivership.com.

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