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

12 Securities and Exchange Commission,

13 Plaintiff,

14 v.

15 Jonathan Larmore, ArciTerra Companies;
16 LLC; ArciTerra Note Advisors II, LLC;
17 ArciTerra Note Advisors III, LLC;
18 ArciTerra Strategic Retail Advisor, LLC;
19 and Cole Capital Funds, LLC,

20 Defendants, and

21 Michelle Larmore, Marcia Larmore;
22 CSL Investments, LLC;
23 MML Investments, LLC;
24 Spike Holdings, LLC;
25 and JMMAL Investments, LLC,

26 Relief Defendants.
27
28

Case No. 23-cv-02470-DLR

**RECEIVER’S MOTION FOR
ORDERS (I) APPROVING (A) THE
ENGAGEMENT AND
COMPENSATION OF MARCUS &
MILLICHAP REAL ESTATE
INVESTMENT SERVICES AS
BROKER FOR THE SALE OF
SUBSTANTIALLY ALL ASSETS OF
GLENROSA 32, LLC, AND (B) THE
AUCTION AND BIDDING
PROCEDURES FOR THE SALE OF
SUBSTANTIALLY ALL ASSETS OF
GLENROSA 32, LLC; (II)
APPROVING THE SALE OF
SUBSTANTIALLY ALL ASSETS OF
GLENROSA 32, LLC, FREE AND
CLEAR OF ALL LIENS, CLAIMS,
ENCUMBRANCES AND
INTERESTS; AND (III) GRANTING
RELATED RELIEF**

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1 Allen D. Applbaum as receiver for ArciTerra Companies, LLC and related entities (the
2 “Receiver”), by and through his counsel, Archer & Greiner, P.C., hereby respectfully moves
3 this Court for orders (A) approving (i) the Receiver’s engagement and compensation of Marcus
4 & Millichap Real Estate Investment Services (“Marcus & Millichap”) as broker for the sale of
5 substantially all assets of Glenrosa 32, LLC (“Glenrosa 32”), a Receivership Entity, including
6 the real property located at 3200 East Glenrosa Avenue, Phoenix, Arizona, and related assisted
7 living and memory facility business known as “MorningStar at Arcadia”, including equipment,
8 furniture, fixtures and good will associated with the business (collectively, the “Glenrosa
9 Property”), and (ii) the proposed sale and bidding procedures (the “Bidding Procedures”) for
10 the sale of the Glenrosa Property including the scheduling of an auction and sale hearing date;
11 (B) approving the sale of the Glenrosa Property to SSOF II ARCADIA PROPCO, LLC
12 (“Stalking Horse Buyer”),¹ or such other bidder that submits a higher and better offer at a public
13 auction, free and clear of all liens, claims, encumbrances and interests; and (C) granting related
14 relief as follows:
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19 **I. Preliminary Statement**

20 1. On December 21, 2023, the Court appointed the Receiver pursuant to the *Order*
21 *Appointing Temporary Receiver and Temporarily Freezing Assets and Imposing Litigation*
22 *Injunction* [ECF 77] (the “Receivership Order”). Since his appointment, the Receiver and his
23 retained professionals have, among other things, assumed control of the Receivership Entities
24 and Receivership Assets, conducted preliminary investigations into the claims and liens
25
26

27 ¹ Stalking Horse Buyer is an affiliate of 12 North Capital LLC and Sabal Investment
28 Holdings.

1 asserted against Receivership Assets, negotiated standstill and forbearance stipulations with
2 parties asserting liens and other interests in Receivership Assets, and conducted other activities
3 required by the Receivership Order to administer the Receivership Estate (as defined in the
4 Receivership Order).²

6 2. The Receiver brings this Motion to approve the sale of the Glenrosa Property
7 consisting of the real and personal property owned by Glenrosa 32, a Receivership Entity that
8 owns and operates “MorningStar at Arcadia,” a premier and award-winning assisted living and
9 memory care facility operated and managed by MorningStar Senior Management, LLC
10 (“MorningStar”), a non-affiliated and highly regarded operator of senior living facilities.

12 3. At the time of the Receiver’s appointment, Glenrosa 32 was party to a forbearance
13 agreement with Arizona Bank & Trust (“AB&T”), the holder of approximately \$22 million in
14 notes purportedly secured by the Glenrosa Property. Prior to the July 31, 2023 maturity date
15 of the AB&T secured notes, Glenrosa 32 engaged Marcus & Millichap to market and solicit
16 offers for the sale of the Glenrosa Property. During the summer of 2023, Marcus & Millichap
17 undertook an extensive marketing campaign, soliciting offers from over 575 potentially
18 interested parties to purchase the Glenrosa Property. Approximately fifty entities entered into
19 confidentiality agreements and were granted access to a data room and tours of the facility if
20 requested. By the end of August 2023, five bidders submitted letters of intent, with offers
21 ranging between \$26 million and \$30 million, subject to various contingencies, including
22 further due diligence, but none resulted in binding offers or a sale.

27 ² On April 1, 2024, the Receiver filed the *Receiver’s Factual Update* [ECF No. 125].
28

1 4. Upon his appointment, the Receiver engaged with AB&T and negotiated and
2 recently executed a further forbearance agreement with AB&T through June 15, 2024 and gives
3 the Receiver and his professionals time to proceed with the auction process and Bidding
4 Procedures proposed by this Motion. During his negotiations with AB&T, the Receiver and
5 his professionals remained in frequent communications with MorningStar, making certain that
6 the facility and its operations were stabilized and capable of complying with AB&T's debt
7 service requirements.
8

9
10 5. The Receiver also reviewed the services provided by Marcus & Millichap in 2023
11 and entered into discussions with Marcus & Millichap regarding additional marketing,
12 solicitation of bids and bidding procedures to ensure receipt of the highest and best offer for
13 the Glenrosa Property. The Receiver ultimately agreed to engage Marcus & Millichap and
14 entered into that certain Exclusive Representation Agreement (the "M&M Agreement") to
15 proceed with the marketing and sale of the Glenrosa Property. A copy of the M&M Agreement,
16 which is subject to Court approval, is annexed as Exhibit B to the Declaration of Randall
17 Coxworth (the "Coxworth Declaration"), which is annexed hereto as Exhibit 1.
18

19
20 6. Over the last several weeks, Marcus & Millichap has worked diligently to locate
21 a buyer for the Glenrosa Property through commercially reasonable and customary channels,
22 including re-engaging with parties who had previously expressed interest in purchasing the
23 Glenrosa Property. Marcus & Millichap afforded all interested parties an opportunity to
24 conduct due diligence and submit offers. As a result of its efforts, the Receiver recently
25 accepted an offer from the Stalking Horse Buyer and executed an asset purchase agreement
26 (the "Stalking Horse Agreement") for cash consideration of \$28,250,000.00 (the "Purchase
27
28

1 Price”), on an “as-is, where-is” basis, and subject to approval by the Court. A copy of the
2 Stalking Horse Agreement is annexed as Exhibit D to the Coxworth Declaration. The Stalking
3 Horse Buyer’s offer is the highest and best offer received after considering offers from other
4 prospective purchasers. As an inducement for the Stalking Horse Buyer to submit its bid and
5 establish a minimum price at a public auction, the Stalking Horse Agreement provides for a
6 two percent break-up fee (the “Break-up Fee”) payable to the Stalking Horse Buyer in the event
7 the Receiver closes on a higher bid after the auction.
8
9

10 7. Absent an overbid at the auction, the Receiver believes, in his reasonable business
11 judgment, that the Purchase Price is the best price obtainable for the Glenrosa Property. The
12 Purchase Price less the secured debt, commission and closing costs will result in approximately
13 \$5 million for the Receivership Estate, and further bidding could enhance such recoveries.
14 Failure to sell at this time would risk potential requests for stay relief from a lender with a
15 matured facility coming up on a year. Accordingly, the Receiver respectfully requests that the
16 Court grant this Motion by entering the orders approving (a) (i) the Receiver’s engagement of
17 Marcus & Millichap and payment of its commission at the closing of the sale, and (ii) the
18 Bidding Procedures, including the Break-up Fee, and (b) upon completion of the auction, the
19 sale of the Glenrosa Property to the Stalking Horse Buyer or any bidder submitting a higher or
20 better offer.
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22
23

24 **II. Background**

25 A. The Receivership Order and Appointment of The Receiver

26 8. On November 28, 2023, the Securities and Exchange Commission filed its
27 Complaint [ECF 1] (the “Complaint”) against Jonathan Larmore (“Larmore”); ArciTerra
28

1 Companies, LLC (“ArciTerra”); ArciTerra Note Advisors II, LLC; ArciTerra Note Advisors
2 III, LLC; ArciTerra Strategic Retail Advisor, LLC; and Cole Capital Funds, LLC (all together,
3 the “Defendants”). Michelle Larmore; Marcia Larmore; CSL Investments, LLC; MML
4 Investments, LLC; Spike Holdings, LLC and JMMAL Investments, LLC were named as relief
5 defendants.
6

7 9. On December 21, 2023, the Court entered the Receivership Order, which
8 appointed the Receiver to, among other things, (a) perform the duties specified in the
9 Receivership Order; (b) ascertain the financial condition of the Receivership Entities and all of
10 the Receivership Assets (as defined in the Receivership Order); (c) oversee and manage the
11 Receivership Entities and the Receivership Assets; and (d) propose for Court approval a fair
12 and equitable distribution of the Receivership Assets.
13
14

15 10. Paragraph 6(N) of the Receivership Order provides that the Receiver shall have
16 the power and duty to:

17 Sell, assign, transfer or otherwise dispose of any assets of the Receivership
18 Entities either directly or through one or more Retained Personnel, subject to
19 approval by this Court with respect to any material assets[.]

20 B. The Glenrosa Property and AB&T Secured Loan

21 11. Glenrosa 32 owns the Glenrosa Property which consists of a 1.12-acre site, with
22 a 135,000+ square foot, four story building, that is currently operated as “MorningStar at
23 Arcadia,” a luxury 135-bed, 110-unit assisted living and memory care facility. The facility was
24 built in 2014, is approximately 90% occupied, and located within the Arcadia submarket of
25 Phoenix and adjacent to the high-end suburbs of Paradise Valley and Scottsdale.
26

27 12. By virtue of a loan agreement dated as of July 27, 2018, Johnson Bank extended
28

1 a \$20 million term loan to Glenrosa 32 (the “Original Loan Agreement”). The Original Loan
2 Agreement was evidenced by a promissory note dated July 27, 2018 (the “\$20 Million Note”)
3 and secured by (a) a Deed of Trust and Fixture Filing with Assignment of Rents and Security
4 Agreement dated as of July 27, 2018 (the “Deed of Trust”) and (b) an Assignment of Rents
5 dated as of July 27, 2018 (the “Assignment of Rents”). The maturity date on the Original Loan
6 Agreement and \$20 Million Note was July 31, 2023.
7

8
9 13. The Original Loan Agreement was amended by that certain First Modification
10 Agreement dated as of June 24, 2019 (the “Modification Agreement,” together with the
11 Original Loan Agreement, the “Loan Agreements”). Pursuant to the Modification Agreement,
12 Johnson Bank extended an additional \$3.6 million loan to Glenrosa 32 as evidenced by a
13 promissory note dated as of June 24, 2019 (the “\$3.6 Million Note”). The \$3.6 million
14 additional loan was extended purportedly for the purpose of providing an earn out to preferred
15 equity investors and reimburse Mr. Larmore for funds allegedly injected into Glenrosa 32. The
16 maturity date on the Modification Agreement and \$3.6 Million Note was July 31, 2023.
17 Pursuant to the Modification Agreement, Glenrosa 32 agreed to execute the First Amendment
18 to the Deed of Trust and Fixture Filing (With Assignment of Rents and Security Agreement)
19 and Amendment to Assignment of Leases and Rents, which extended the mortgage and security
20 interests to include the new \$3.6 million loan as an obligation under the Deed of Trust and
21 Assignment of Rents. Mr. Larmore guaranteed the obligations due under the Loan Agreements.
22 In 2020, AB&T acquired Johnson Bank’s Arizona banking operations and assumed the Arizona
23 deposits and liabilities including the \$20 Million Note and the \$3.6 Million Note.
24

25
26
27 14. Unable to satisfy the obligations due under the Loan Agreements by the July 31,
28

1 2023 maturity date, Glenrosa 32 entered into forbearance agreements with AB&T in August,
2 September and December 2023, pursuant to which AB&T agreed to forbear from exercising its
3 remedies for the alleged defaults and extend the maturity date to February 9, 2024.
4

5 15. AB&T has informed the Receiver that, as of February 12, 2024, the outstanding
6 balance due under the \$20 Million Note is \$18,085,609, and the outstanding balance due under
7 the \$3.6 Million Note is \$3,353,915, for total outstanding of \$21,439,524. In addition, AB&T
8 alleges that Glenrosa 32 and Mr. Larmore owe attorneys' fees in excess of \$16,424 and costs
9 of \$72.07 as of the same date (collectively with the outstanding balances due under the Loan
10 Agreements, the "Outstanding Balances"). AB&T further alleges the Outstanding Balances
11 continue to accrue interest, attorneys' fees and costs.
12

13
14 16. By agreement dated as of February 29, 2024, the Receiver entered into a further
15 forbearance agreement with AB&T whereby AB&T agreed to forbear and extend the maturity
16 date of the Loan Agreements to June 15, 2024. As a condition to the extension, Glenrosa 32
17 agreed to make interest payments to AB&T at the non-default rate under the Loan Agreements
18 and close on a sale of the Glenrosa Property on or prior to June 15, 2024.
19

20 C. The Stalking Horse Buyer

21 17. While negotiating with AB&T, the Receiver engaged with Marcus & Millichap
22 to find a buyer for the Glenrosa Property and through the efforts of Marcus & Millichap, the
23 Receiver recently received several offers to purchase the Glenrosa Property. While the offers
24 received were generally within the same price range, the Receiver believes the Stalking Horse
25 Buyer's offer is the highest and best as the cash consideration is higher or on par with other
26 bidders and the Stalking Horse Buyer confirmed its intention to maintain the same operator and
27
28

1 agreed to close on the sale within twenty (20) business days following approval by the Court.
2 After receiving and carefully considering all the offers, the Receiver and the Stalking Horse
3 Buyer negotiated and finalized the terms of the Stalking Horse Agreement, which sets forth the
4 terms of the proposed sale.
5

6 18. Pursuant to the Stalking Horse Agreement, the Stalking Horse Buyer has
7 provided the Receiver with a five percent cash deposit in the amount of \$1,412,500, and agreed
8 to pay the remainder of the Purchase Price at closing.³ Notably, the Stalking Horse Agreement
9 provides for the sale of the Glenrosa Property on an “as is, where is” basis, with no
10 representations or warranties from the Receiver or the Receivership Entities and is solely
11 contingent on approval of this Motion and the Receiver’s ability to deliver insurable title.
12

13 19. The Receiver believes, in his reasonable business judgment, that the offer by the
14 Stalking Horse Buyer as reflected in the Stalking Horse Agreement is the highest and best offer
15 received. Furthermore, the reasonableness of the Purchase Price will be further tested through
16 the auction process provided for in the proposed Bidding Procedures.
17

18 **III. Relief Requested**

19 20. By this Motion, the Receiver seeks entry of two Orders, that provide for:

- 21 a. The approval of (i) the Receiver’s engagement and compensation of Marcus &
22 Millichap, pursuant to the terms of the M&M Agreement, and (ii) the Bidding
23 Procedures, including the Break-up Fee payable to the Stalking Horse Buyer,
24 approving the notice of auction and sale, scheduling an auction to be conducted
25 by Zoom (the “Auction”) and setting a sale hearing date immediately after the
Auction (the “Sale Hearing”) to consider the final approval of the sale of the
Glenrosa Property (the “Bidding Procedures Order”), in the form attached hereto

26 ³ Pursuant to the Stalking Horse Agreement and Bidding Procedures, an addition five
27 percent deposit is due if the Stalking Horse Buyer is the highest or second highest bidder
28 after the auction.

1 as Exhibit 2; and

- 2 b. The approval of the sale of the Glenrosa Property to the Stalking Horse Buyer or
3 such other bidder offering the highest and best bid at the Auction (the “Sale
4 Order”), in the form attached hereto as Exhibit 3.

5 **IV. Basis for Relief Requested**

6 A. Authorization to Sell the Glenrosa Property

7 21. The Court’s power to supervise an equity receivership and to determine the
8 appropriate actions to be taken in the administration of the receivership is extremely broad. *See*
9 *Securities and Exchange Com'n v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005)
10 (quoting *Securities and Exchange Com'n v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986)). “The
11 power of a district court to impose a receivership or grant other forms of ancillary relief does
12 not in the first instance depend on a statutory grant of power from the securities laws. Rather,
13 the authority derives from the inherent power of a court of equity to fashion effective relief.”
14 *Securities and Exchange Com'n v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980). A court
15 imposing a receivership assumes custody and control of all assets and property of the
16 receivership, and it has broad equitable authority to issue all orders necessary for the proper
17 administration of the receivership estate. *See Securities and Exchange Com'n v. Credit Bancorp*
18 *Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002).

19 22. It is well within the Court’s broad authority to approve the auction, sale and
20 Bidding Procedures set forth herein. “The power of sale necessarily follows the power to take
21 possession and control of and to preserve property.” *Securities and Exchange Com'n v.*
22 *American Capital Invest., Inc.*, 98 F.3d 1133, 1144 (9th Cir. 1996), *abrogated on other grounds*
23 *by Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 93-94 (1998) (quoting 2 Ralph E. Clark,
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1 *Treatise on Law & Practice of Receivers* § 482 (3d ed. 1992)); *see also Gockstetter v. Williams*,
2 9 F.2d 354, 357 (9th Cir. 1925) (“In authorizing the sale of property by receivers, courts of
3 equity are vested with broad discretion as to price and terms”).
4

5 23. In addition to the equitable powers vested in this Court, this Court is conferred
6 with the statutory authority to authorize the sale of the Glenrosa Property. Sales of assets by
7 federal receivers are governed by sections 2001, 2002, and 2004 of Title 28 of the United States
8 Code. Section 2001 governs sales of real property and section 2004 governs sales of personal
9 property, while section 2002 sets forth the procedures for the noticing of sales.
10

11 24. Section 2001(a) sets forth the requirements for a receiver’s sale of real estate
12 pursuant to a public auction process as requested by this Motion:
13

14 (a) Any realty or interest therein sold under any order or decree of any court of the
15 United States shall be sold as a whole or in separate parcels at public sale at the
16 courthouse of the county, parish, or city in which the greater part of the property is
17 located, or upon the premises or some parcel thereof located therein, as the court
18 directs. Such sale shall be upon such terms and conditions as the court directs.

19 25. Section 2002 provides that notice of sales of real estate must be published:
20

21 A public sale of realty or interest therein under any order, judgment or decree of any
22 court of the United States shall not be made without notice published once a week
23 for at least four weeks prior to the sale in at least one newspaper regularly issued and
24 of general circulation in the county, state, or judicial district of the United States
25 wherein the realty is situated.

26 26. The notice “shall be substantially in such form and contain such description of
27 the property by reference or otherwise as the court approves.” *Id.*
28

29 27. Section 2004 provides that the sale of personal property “shall be sold in
30 accordance with section 2001 of this title, unless the court orders otherwise.” 28 U.S.C. § 2004.
31

32 28. Here, the Receiver proposes to sell the Glenrosa Property, which consists of real
33

1 and personal property, pursuant to a public auction process in compliance with 28 U.S.C. §§
2 2001(a), 2002 and 2004. The Receiver proposes to sell the Glenrosa Property to the Stalking
3 Horse Buyer subject to an auction to be conducted by Zoom as prescribed in the Bidding
4 Procedures. The Receiver requests that the Auction be scheduled during the morning of a date
5 in May or early June 2024, with the Sale Hearing scheduled for the afternoon, or as soon
6 thereafter as possible. The Receiver will cause notice of the Auction and Sale Hearing to be
7 published for four consecutive weeks in the Arizona Business Gazette. In addition to
8 publishing notice, Marcus & Millichap will continue marketing the Glenrosa Property in a cost-
9 effective approach across multiple platforms, including mail, email, and telephone, in a manner
10 consistent with ordinary custom and practice in the industry. Once the Auction is completed,
11 the Receiver will proceed with the Sale Hearing before the Court at which time he will
12 announce the winner of the Auction and request approval of the sale to such prevailing bidder.
13
14
15

16 B. Approval of the Engagement and Compensation of Marcus & Millichap

17 29. The Receiver also seeks approval of his engagement of Marcus & Millichap to
18 market and solicit offers for the Glenrosa Property and broker its sale. Pursuant to paragraph
19 6(I) of the Receivership Order, the Receiver may engage and employ professionals, including
20 brokers, as necessary to assist in carrying out his duties, upon Court order.
21

22 30. Marcus & Millichap is a nationally-recognized commercial brokerage firm with
23 significant expertise brokering sales in the senior housing industry, including assisted living
24 facilities, recently closing transactions in the senior housing industry totaling \$750 million.⁴
25
26

27 ⁴ See <https://www.marcusmillichap.com/services/property-types/seniors-housing>.
28

1 As a result of its prior experience with the Glenrosa Property, the Receiver submits that Marcus
2 & Millichap is best suited for marketing and brokering the sale of the Glenrosa Property.

3
4 31. For the Glenrosa Property, Marcus & Millichap has created high quality
5 marketing materials that showcase the impressive physical structures and profitability history
6 of the facility. Once bidders sign a confidentiality agreement, they can receive access to a data
7 room which will provide an in-depth review of all pertinent information on the facility. Upon
8 approval of its retention and entry of the Bidding Procedures Order, Marcus & Millichap will
9 continue to market and solicit bids by specifically targeting buyers reasonably believed to be
10 interested in purchasing the Glenrosa Property, providing the marketing material to over 500
11 interested buyers and publishing notice of the Auction and Sale Hearing in the Arizona
12 Business Gazette. In addition, notice of the Auction and Sale Hearing will be published on the
13 Receiver's website established in this receivership. Through these efforts, the Glenrosa
14 Property will be exposed to a targeted marketing list of active bidders including owners and
15 operators of senior living facilities, private equity and other financial funds.

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18 32. Pursuant to the M&M Agreement, Marcus & Millichap is entitled to receive one
19 and a half percent (1.5%) of the gross purchase price on account of their services (the "M&M
20 Commission"). The Receiver requests authority to pay the Marcus & Millichap Commission
21 upon the closing of the sale of the Glenrosa Property.

22
23
24 33. Marcus & Millichap has represented to the Receiver that it does not hold any
25 interest materially adverse to any of the Receivership Entities. A copy of a Declaration on
26 behalf of Marcus & Millichap (the "M&M Declaration") is annexed as Exhibit C to the
27 Coxworth Declaration.
28

1 34. The Receiver submits that the engagement of Marcus & Millichap on the terms
2 and conditions set forth herein and in the M&M Agreement is necessary and appropriate, in the
3 best interests of the Receivership Estate, and should be granted in all respects.
4

5 C. Approval of The Bidding Procedures

6 35. The Receiver proposes to sell the Glenrosa Property for the highest and best price
7 at public auction in accordance with the Bidding Procedures. Through the Bidding Procedures,
8 the Receiver, with the assistance of Marcus & Millichap, intends to market-test the bid
9 submitted by the Stalking Horse Buyer to determine whether higher or better offers for the
10 Glenrosa Property can be obtained.
11

12 36. The Bidding Procedures Order also specifies the procedures for bidding on the
13 sale and filing objections to the proposed sale. Only “Qualified Bidders” shall be permitted to
14 submit bids and attend the Auction. A “Qualified Bidder” is a prospective purchaser who, no
15 later than 10 days prior to the Auction: Submits a written bid proposal to the Receiver that (1)
16 is accompanied by a fully executed asset purchase agreement for the Glenrosa Property for the
17 Purchase Price, plus the Minimum Initial Overbid Amount (defined below), and with terms
18 substantially similar in all material aspects to the terms of the Stalking Horse Agreement and
19 otherwise acceptable to the Receiver in his sole discretion (a “Qualified Bid PSA”), and (2)
20 confirms such prospective purchaser’s ability to close and consummate the transaction no later
21 than twenty (20) business days of entry of the Sale Order, and (3) treat the bidder’s deposit in
22 accordance with the procedures in the Bidding Procedures Order. At the conclusion of the
23 Auction, the Receiver will accept the bidder who submits the highest and best offer for the
24 Glenrosa Property (the “Successful Bidder”). The Receiver will also accept the bid from the
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1 second highest bidder (the “Back-up Bidder”) who shall close on the purchase of the Glenrosa
2 Property in the event the Successful Bidder fails to close. After the Auction, the Successful
3 Bidder and Back-up Bidder will be required to increase their deposits to 10% of the purchase
4 price and sign a purchase and sale agreement, substantially in the form of the Stalking Horse
5 Agreement.
6

7 37. At the conclusion of the Auction and at the Sale Hearing, the Receiver will
8 request the Court to approve the sale of the Glenrosa Property to the Stalking Horse Buyer or
9 such other Successful Bidder. The Successful Bidder shall be required to close no later than
10 20 business days after the entry of the Sale Order.
11

12 38. The key terms of the proposed Bidding Procedures,⁵ subject to entry of the
13 Bidding Procedures Order, are set forth in the Coxworth Declaration. If no other qualified
14 bidders submit bids prior to the bid deadline, the Auction will be cancelled and the Receiver
15 will seek entry of the Sale Order and approval of the Stalking Horse Agreement at the Sale
16 Hearing.
17

18 39. The Receiver requests approval of the Bidding Procedures as they will help to
19 achieve the “primary purpose of [an] equity receivership;” that is, “to promote orderly and
20 efficient administration of the estate . . . for the benefit of creditors.” *Hardy*, 803 F.2d at 1037.
21

22 D. Payment of the Break-up Fee is Appropriate
23

24 40. Pursuant to the Stalking Horse Agreement, the Receiver has agreed to pay a
25 Break-up Fee to the Stalking Horse Buyer if the Receiver receives and closes on a bid with a
26

27 ⁵ The proposed Bidding Procedures are attached as Exhibit A to the Bidding Procedures
28 Order.

1 bidder other than the Stalking Horse Buyer. The Break-up Fee will be paid to the Stalking
2 Horse Buyer at closing of the sale to a Successful Bidder, other than the Stalking Horse Buyer,
3 and from the proceeds of the sale. The Receiver submits that payment of the Break-up Fee,
4 which is two percent of the Purchase Price, is reasonable and provides a substantial benefit to
5 the Receivership Estate and its stakeholders as it provides a market-based indication of value
6 that will open, and establish a floor price, at the Auction.
7

8 41. A break-up fee is designed to compensate a bidder for the risk of being outbid.
9 Courts recognize that break-up fees may enhance the bidding process by encouraging the first
10 bid. Break-up fees may “be legitimately necessary to convince a ‘white knight’ to enter the
11 bidding by providing some form of compensation for the risks it is undertaking.” *Samjens*
12 *Partners I v. Burlington Industries Inc.*, 663 F.Supp. 614, 624 (S.D.N.Y. 1988). Break-up fees
13 of three percent or less of a purchase price have been approved by courts where it is determined
14 that the fee will not chill bidding and is beneficial to the selling estate. *In re Cmty. Healthcare*
15 *of Douglas, Inc.*, 2013 WL 12291504, at *2 (Bankr. D. Ariz. Oct. 22, 2013); *In re Sea Island*
16 *Co.*, 2010 WL 4393269, at *3 (Bankr. S.D. Ga. Sept. 15, 2010).
17
18
19

20 42. Here, the two percent Break-up Fee, if any, will be paid only if the Stalking Horse
21 Buyer is outbid at the Auction and from the proceeds of the sale. Accordingly, the Receiver
22 requests that the Court approve the Break-up Fee as reasonable.
23

24 E. Sale Free and Clear of Liens, Claims, Encumbrances and Interests

25 43. While not expressly provided for statutorily, an order approving the sale of assets
26 by a federal receiver may provide for the sale of property free and clear of liens, claims,
27 encumbrances and other interests with all such interests attaching to the proceeds of the sale.
28

1 *Sec. & Exch. Comm'n v. Cap. Cove Bancorp LLC*, 2015 WL 9701154, at *4 (C.D. Cal. Oct. 13,
2 2015); *Regions Bank v. Egyptian Concrete Co.*, 2009 WL 4431133, at *7 (E.D. Mo. Dec. 1,
3 2009) (“[I]t has long been recognized that under appropriate circumstances, a federal court
4 presiding over a receivership may authorize the assets of the receivership to be sold free and
5 clear of liens and related claims”); *Quilling v. Trade Partners, Inc.*, 2007 WL 296211 (W.D.
6 Mich. 2007) (approving receiver’s sale of property free and clear of all liens and
7 encumbrances); *see also Seaboard Natl. Bank v. Rogers Milk Prod. Co.*, 21 F.2d 414, 416 (2d
8 Cir. 1927); *Sec. & Exch. Comm'n v. Princeton Econ. Int’l Ltd.*, 2008 WL 7826694, *5
9 (S.D.N.Y. Sept. 30, 2008).

12 44. The Receiver proposes to sell the Glenrosa Property to the Stalking Horse Buyer
13 (or other Successful Bidder in accordance with the Bidding Procedures), free and clear of all
14 liens, claims, encumbrances and other interests (collectively, “Liens and Encumbrances”) with
15 such Liens and Encumbrances attaching to the proceeds of the sale in the same order of priority.

17 45. Other than the liens asserted by AB&T, the Receiver is not aware of any other
18 Liens and Encumbrances asserted against the Glenrosa Property. The Purchase Price will
19 provide sufficient funds to allow for the satisfaction of AB&T’s secured claims, and the
20 Receiver proposes to pay the undisputed amounts due and owing to AB&T at closing on the
21 sale of the Glenrosa Property.

23 46. To the extent other Liens and Encumbrances exist, the Receiver requests
24 authority to close the sale of the Glenrosa Property, free and clear of all Liens and
25 Encumbrances, and for those Liens and Encumbrances to attach to the sale proceeds, which
26 shall be placed in a segregated account with the title company pending further order of the
27
28

1 Court or written agreement among the parties.

2 47. In addition to satisfying the undisputed claims of AB&T, all customary closing
3 costs of sale, and the commission due to Marcus & Millichap, will be paid at the time of closing.
4 Proceeds in excess of the amount necessary to satisfy AB&T's claims, Marcus & Millichap and
5 closing costs will be held in the Receivership Estate for distribution to creditors and investors,
6 and for other receivership expenses, at the appropriate time and subject to further Court order.
7

8 F. Proposed Form and Manner of Notice of the Sale

9 48. To provide all interested parties with notice of the Auction and Sale Hearing, the
10 Receiver requests approval of notice procedures, as set forth in the Coxworth Declaration.
11

12 49. The Receiver submits that the notice to be provided and the method of service
13 proposed therein constitutes good and adequate notice of the sale and complies with sections
14 2001, 2002 and 2004 of Title 28. Accordingly, the Receiver requests that this Court approve
15 the notice procedures and that no other or further notice of the sale is required.
16

17 **V. Conclusion**

18 50. No prior motion for the relief sought herein has been made to any court.

19 51. Given the authorities set forth herein, request is made to waive any requirement
20 to file a separate memorandum of law. *See* LRCiv 7.2(b).
21

22 WHEREFORE, the Receiver respectfully requests that this Court enter orders (a)
23 approving the M&M Agreement and the Bidding Procedures and scheduling the Auction and
24 Sale Hearing; (b) approving the sale of the Glenrosa Property to the Stalking Horse Buyer or
25 such other bidder offering the highest and best bid at the Auction; and (c) granting such other
26 relief as is just and equitable.
27
28

1 Dated: April 19, 2024

ARCHER & GREINER, P.C.

2
3 By: 

Allen G. Kadish (*pro hac vice*)

Harrison H.D. Breakstone (*pro hac vice*)

1211 Avenue of the Americas

New York, New York 10036

Tel: (212) 682-4940

Email: akadish@archerlaw.com

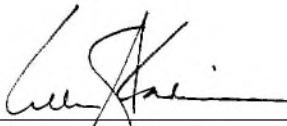
hbreakstone@archerlaw.com

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Counsel for Allen D. Applbaum as Receiver

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2024, I electronically transmitted the foregoing document with the Clerk of the Court using the CM/ECF systems, which will provide electronic mail notice to all counsel of record.



Allen G. Kadish

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INDEX TO EXHIBITS

Exhibit 1 – Coxworth Declaration

Exhibit A – Curriculum Vitae

Exhibit B – M&M Agreement

Exhibit C – M&M Declaration

Exhibit D – Stalking Horse Agreement

**Exhibit E – 12 North Capital LLC and
Sabal Investment Holdings Background**

Exhibit 2 – Bidding Procedures Order

Exhibit A – Bidding Procedures

Exhibit B – Notice of Sale

Exhibit 3 – Sale Order

Exhibit A – Final PSA

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EXHIBIT 1
COXWORTH DECLARATION

**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

**DECLARATION IN SUPPORT OF
MOTION**

RANDALL COXWORTH hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, to the best of his knowledge, information and belief:

1. I am a partner at the firm of StoneTurn Group, LLP (“StoneTurn”) and am a Certified Construction Manager and Auditor, who specializes in program and project management services, including strategic delivery, risk identification, contract control assessments, and process performance reviews. My experience also includes capital project financial analyses, financial restructuring, rescue financing and forbearance services across various real estate asset classes. I have a B.A. and M.B.A. and have been in practice as a construction and real estate professional and consultant for over twenty-

1 five years. My curriculum vitae is attached hereto as Exhibit A. I have led the real estate
2 efforts at StoneTurn on behalf of the Receiver and worked closely with the Receiver and
3 Receiver’s counsel. I submit this declaration in support of the relief sought in the prefixed
4 Motion and adopt the statements made therein as if set forth herein.
5

6 2. On December 21, 2023, the Court entered the *Order Appointing Temporary*
7 *Receiver and Temporarily Freezing Assets and Imposing Litigation Injunction* [ECF No.
8 77] (the “Receivership Order”), which among other things, appointed Allen D. Applbaum
9 as Receiver (the “Receiver”), and approved StoneTurn and Archer & Greiner, P.C. as
10 “Retained Personnel” in this case.
11

12 3. Since the Receivership Order was entered the Retained Personnel have
13 analyzed the assets of Glenrosa 32 LLC, including 3200 East Glenrosa Avenue, Phoenix,
14 Arizona, and related assisted living and memory facility business known as “MorningStar
15 at Arcadia,” along with any equipment, furniture, fixtures and good will associated with
16 the business (collectively, the “Glenrosa Property”).
17

18 4. Upon the Receiver’s appointment and after investigating the financial
19 condition of the Receivership Estate, the Receiver evaluated the real estate holdings of the
20 Receivership Estate and undertook a comprehensive effort to solicit interest from potential
21 purchasers for the Glenrosa Property.
22

23 5. Upon making the determination that it would be in the best interest of the
24 receivership to market the Glenrosa Property, the Receiver, together with his professionals
25 at StoneTurn Group, LLP and Archer & Greiner, P.C., considered potential brokers for the
26 Glenrosa Property and ultimately selected Marcus & Millichap and negotiated the terms of
27
28

1 the Marcus & Millichap Exclusive Representation Agreement (the “M&M Agreement”),
2 subject to Court approval. A copy of the M&M Agreement is attached hereto as Exhibit
3 B.
4

5 6. Prior to execution of the M&M Agreement, Marcus & Millichap informed
6 StoneTurn of the absence of any material conflict. Additionally, attached hereto as Exhibit
7 C is a Declaration of Disinterestedness on behalf of Marcus & Millichap.
8

9 7. The M&M Agreement provides a fee in the amount of a reduced percentage
10 because of the proposed value and fiduciary nature of the engagement.

11 8. Following execution of the M&M Agreement, Marcus & Millichap marketed
12 the Glenrosa Property to locate a potential stalking horse purchaser to support a competitive
13 sale process. Marcus & Millichap maintained and provided access to diligence materials
14 to potential stalking horse purchasers.
15

16 9. During the stalking horse marketing process, an offer was made by 12 North
17 Capital LLC and Sabal Investment Holdings who, through an affiliate, SSOF II ARCADIA
18 PROPCO, LLC, agreed to the terms of the Asset Purchase Agreement attached hereto as
19 Exhibit D (the “Stalking Horse Agreement”).
20

21 10. 12 North’s founder and managing principal, Frank Small, has over 20 years
22 of experience acquiring and asset managing senior housing communities with focus on
23 assisted living communities. Mr. Small has also led over \$10 billion of investment activity
24 overall and \$5 billion in senior housing, including single assets, portfolios, public and
25 private operating companies. Additional information regarding 12 North and Sabal
26 Investments is attached hereto as Exhibit E.
27
28

1 11. As set forth in the Motion, Morningstar currently operates the Glenrosa
2 Property under a contract that is terminable. Nevertheless, the Stalking Horse Bidder
3 intends to maintain Morningstar as operator. In the event Stalking Horse Bidder is unable
4 to secure the necessary operating license from Arizona by the Closing Date (as defined in
5 the Stalking Horse Agreement), the Receiver and Stalking Horse Bidder shall close on the
6 sale and enter into an amendment to the Morningstar management agreement and sublease,
7 substantially in the form annexed to the Stalking Horse Agreement, to allow the Stalking
8 Horse Buyer time to obtain the necessary licensing.
9
10

11 12. As the Receiver's professionals were entertaining offers and negotiating the
12 Stalking Horse Agreement, his professionals were negotiating simultaneously with two
13 other parties who made similar offers. In essence, a pre-auction already has been conducted
14 in connection with execution of a Stalking Horse Agreement. The Stalking Horse Bidder
15 was chosen based on several factors, including purchase price, qualification, minimal
16 disruption to the operations of the facility and its residents, and anticipated wherewithal to
17 close the transaction and transition operations successfully soon after its approval.
18
19

20 13. The following are the key terms of the proposed Bidding Procedures,¹ subject
21 to entry of the Bidding Procedures Order:

- 22 a. Auction Place and Time. There will be a public Auction held by Zoom on a
23 date in May 2024 set by the Court, beginning at 10:00 a.m. (Phoenix Time).
24 Instructions for attending the Auction will be delivered by Marcus &
25 Millichap to all Qualified Bidders (as defined below).
26

27 ¹ The proposed Bidding Procedures are attached as Exhibit A to the Bidding
28 Procedures Order.

- 1 b. Break-up Fee. To induce the Stalking Horse Buyer to conduct its due
2 diligence, submit an offer and establish a minimum price for the Glenrosa
3 Property, the Stalking Horse Agreement provides for the payment of a Break-
4 up Fee (representing 2% of the Purchase Price) to be payable to the Stalking
5 Horse Buyer from the proceeds of any sale of the Glenrosa Property if the
6 Stalking Horse Buyer is outbid for the Glenrosa Property after the Auction.
- 7 c. Qualification to Bid and Overbid. Any party appearing at the Auction to bid
8 on the Glenrosa Property must be a “Qualified Bidder” as defined herein. A
9 Qualified Bidder is a prospective purchaser who, no later than 10 days prior
10 to the Auction:
- 11 i. Submits a written bid proposal to the Receiver that (1) is
12 accompanied by a fully executed asset purchase agreement for the
13 Glenrosa Property for the Purchase Price, plus the Minimum
14 Initial Overbid Amount (defined below), and with terms
15 substantially similar in all material aspects to the terms of the
16 Stalking Horse Agreement and otherwise acceptable to the
17 Receiver in his sole discretion (a “Qualified Bid PSA”), and (2)
18 confirms such prospective purchaser’s ability to close and
19 consummate the transaction no later than twenty (20) business
20 days of entry of the Sale Order, and (3) treat the bidder’s deposit
21 in accordance with the procedures below and in the Bidding
22 Procedures Order.
- 23 ii. Provides evidence, in a form reasonably acceptable to the
24 Receiver, that the bidder has the ability to pay the Purchase Price
25 for the Glenrosa Property, plus the Minimum Initial Overbid
26 Amount.
- 27 iii. Submits a good faith deposit of five percent (5%) of the bid (the
28 “Deposit”) payable by wire transfer or certified bank check to be
held in escrow by First American Title Company. Deposit
instructions will be provided upon request to Marcus & Millichap
or the Receiver’s undersigned counsel. The Deposit of each
Qualified Bidder that is not submitted by the Successful Bidder or
the Back-up Bidder shall be irrevocable and non-refundable until
such time as the Auction concludes, or the Receiver receives and
accepts a higher or better Bid at the Auction. At the conclusion of
the Auction, the Successful Bidder and Back-up Bidder shall
increase the Deposit amount to ten percent (10%) of the Purchase
Price. The Deposit submitted by the Back-up Bidder shall be

1 irrevocable and nonrefundable until the closing of the sale of the
2 Glenrosa Property to the Successful Bidder.

- 3 d. The Stalking Horse Buyer is Deemed a Qualified Bidder. Notwithstanding
4 the bidding requirements above, the Stalking Horse Buyer is deemed a
5 Qualified Bidder.
- 6 e. Minimum Initial Overbid and Subsequent Overbids. The initial overbid must
7 be at least \$1,000,000 in excess of the Purchase Price (the "Minimal Initial
8 Overbid Amount"). Subsequent overbids shall be in increments of at least
9 \$100,000 above the Minimal Initial Overbid Amount.
- 10 f. Bidding at the Auction. The Auction shall continue until there is only one
11 bid made by a Qualified Bidder (a "Qualified Bid") that the Receiver, in
12 consultation with Marcus & Millichap and his other professionals,
13 determines is the highest and best Qualified Bid (the "Successful Bid"). The
14 Receiver shall also determine which Bid is the second highest and best
15 Qualified Bid (the "Back Up Bid"). To the extent the Stalking Horse Buyer
16 Purchase Price is the second highest and best Qualified Bid it shall be the
17 Back Up Bid.
- 18 g. Due Diligence. All Qualified Bidders will be permitted to conduct due
19 diligence on the Glenrosa Property, including via a review of the due
20 diligence materials prepared by Marcus & Millichap, prior to the Auction.
- 21 h. No Contingencies. The sale to any Qualified Bidder shall not be subject to
22 any contingencies, including without limitation, for financing, due diligence,
23 or inspection.
- 24 i. As Is/Where Is Purchase. The sale to any Qualified Bidder shall be on an
25 "AS-IS, WHERE-IS" basis, with no representations or warranties made by
26 the Receiver, his professionals, or the Receivership Entities.

27 14. The following are the proposed notice procedures:

- 28 a. Notice by Mail. The Receiver proposes to serve, within five (5) business days
of entry of the Bidding Procedures Order, the form of notice of the sale,
attached as Exhibit B to the Bidding Procedures Order (the "Sale Notice") by
United States first class mail on (1) all known creditors of the Receivership
Estate at the address set forth in the Receivership Entities' books and records
or as updated pursuant to a request by a creditor or by returned mail from the
post office with a forwarding address; (2) any party known or reasonably
believed to have asserted any Lien and Encumbrance or other interest in the

1 Glenrosa Property; (3) all parties to pending litigation against Glenrosa 32 (as
2 of the date of entry of the Bidding Procedures Order); (4) any party known or
3 reasonably believed to have expressed an interest in acquiring some or
4 substantially all of the Glenrosa Property, including all parties who previously
5 submitted offers; (5) the Securities and Exchange Commission, the United
6 States Attorney for the Southern District of New York, the Internal Revenue
7 Service and all local governmental units; and (6) such additional persons and
8 entities deemed appropriate by the Receiver.

9
10 b. Notice by Publication – Receiver’s Website. The Sale Notice will also be
11 made available, within five (5) business days of entry of the Bidding
12 Procedures Order, on the Receiver’s website at
13 <http://www.arciterrareceivership.com>.

14 c. Notice by Publication – Arizona Business Gazette. Within five (5) calendar
15 days of entry of the Bidding Procedures Order, the Receiver will cause
16 Marcus & Millichap to publish notice of the Auction and his intent to sell the
17 Glenrosa Property for four weeks and in accordance with 28 U.S.C. § 2002,
18 in the Arizona Business Gazette, a publication of wide circulation in the area
19 where the Glenrosa Property is located.

20 15. Assuming a Purchase Price of no less than \$28,250,000, and secured debt of
21 approximately \$22,500,000 and Marcus & Millichap’s commission of approximately
22 \$425,000, the sale should yield gross proceeds to the Receivership Estate of approximately
23 \$5,325,000.

24 I declare under penalty of perjury that the foregoing is true and correct.

25 Dated: San Diego, California
26 April 18, 2024

27 *Randall Coxworth*
28 _____
Randall Coxworth

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Exhibit A
Curriculum Vitae



Randall Coxworth

**Certified Construction Manager &
Certified Construction Auditor**

Partner

T: +1 213 459 1830
M: +1 619 400 7579
E: rcoxworth@stoneturn.com

Los Angeles & San Diego
6420 Wilshire Blvd
Suite 880
Los Angeles, CA 90048

Chicago
227 West Monroe Street
Suite 3725
Chicago, IL 60606

Randall Coxworth, a Partner at StoneTurn, whose career spans 25 years of executive expertise in the fields of management consulting, real estate, construction, and turnaround and restructuring.

Randall specializes in evaluating project financial structures to align them with business objectives. Leveraging his expertise, he assesses project feasibility within existing capital frameworks and market dynamics. His experience spans capital project financial analyses, financial restructuring, rescue financing, and forbearance services across various asset classes. Dedicated to optimizing project outcomes, Randall navigates complex financial intricacies and market nuances to effectively meet business goals.

Randall is a seasoned professional renowned for his exceptional guidance in the planning and execution of large-scale capital projects. Additional expertise encompasses a comprehensive suite of program and project management services. Moreover, his collaboration extends to strategic assessments, global planning, oversight and control structures, stage-gate process design and implementation, efficiency enhancements, reporting enhancements, transparency initiatives, and integrative solutions.

Notably, Randall Coxworth has earned recognition as an expert in construction, construction management, and project management standards of care. His expertise has been sought after by clients across the United States, attesting to his unparalleled acumen in navigating the intricate landscape of capital projects.

Before joining the StoneTurn team, Randall held senior leadership positions at Ankura and Protiviti, as well as with a privately-held construction firm. His journey to professional excellence was preceded by a distinguished tenure as a United States Marine, underscoring his unwavering dedication and leadership qualities.

Education

MBA, University of Southern California

B.A., Northeastern Illinois University

Practice Areas

Construction & Real Estate

Claims & Disputes

Turnaround & Restructuring

Risk Mitigation

Process & Technology Optimization

Facilities Solutions

Construction Integrity Monitoring

Randall Coxworth, CCM, CCA
Partner

SELECT PROFESSIONAL EXPERIENCE

- **Multifamily Distressed Development Project:** Engaged by the lender in Los Angeles, CA, this project required a comprehensive assessment and strategic intervention. The aim was to stabilize the real estate asset from its distressed state through a thorough evaluation and strategic recommendations. Acting on behalf of the lender, spearheaded corrective actions to navigate challenges, ensuring the project's stability until completion and disposition. Through established analysis and monitoring of construction costs, the project was guided to a successful conclusion, securing its viability and enhancing its value for eventual disposition in the Los Angeles real estate market.
- **Distressed Hotel Real Estate Asset:** Conducted a comprehensive assessment of a downtown New York City hotel on behalf of a Lender, focusing on optimizing revenue and minimizing costs within the competitive market. Recommendations were provided for revenue enhancement and cost reduction strategies, considering the hotel's market position. Proposed funding and recovery pathways, outlining actionable steps. Constructed a valuation model encompassing six scenarios, accounting for pre- and post-COVID-19 conditions and varying hold durations. Scrutinized project records, uncovering unreported budget overruns and forecasting completion costs surpassing available funding, based on assessments of contracts, budgets, and potential change orders.
- **Commercial Property Turnaround & Restructuring:** Real Estate asset in Nashville, TN involved a comprehensive revitalization of a commercial property amidst major renovations. The project mandate was aimed to reposition and rejuvenate the property, strategically navigating through extensive renovations on behalf of the lender. The endeavor focused on restructuring elements of the property to align with market demands, optimizing its appeal and functionality. Through meticulous planning and execution, the project aimed to breathe new life into the commercial space, aiming to elevate its market presence and cater to the evolving needs of Nashville's vibrant commercial landscape.
- **International Real Estate Developer:** Designed and implemented a complete future state target operating model for a private equity backed international real estate developer which included a complete review, design and implementation of process improvements and governance structure. Aligned investor expectations and reporting requirements for pre-development activities through operational turnover.
- **Construction Industry Executive:** Executed and delivered construction projects as a project manager while becoming an executive at the firm with responsibility of the full P&L and enterprise growth initiatives.
- **Real Estate Development:** Developed commercial real estate in the Southwest Region of the United States including redevelopment projects in San Diego, California.
- **Construction Subject Matter Expert (SME):** Expertise provided to multiple internal audit departments while conducting business level audits of supplier management due diligence, procurement governance, contract management and compliance, procurement delegation of authority, fraud case referral, requisition management, goods receipt management, inventory management, and cost recovery management.

Randall Coxworth, CCM, CCA
Partner

PREVIOUS EXPERIENCE

- Ankura Consulting Group, Senior Managing Director (2019 – 2022)
- Protiviti, Managing Director (2010-2018)
- Har-Bro Construction & Consulting, Vice President & Regional Manager (2001-2009)
- Laurens Restoration, Inc., Account Executive & Senior Estimator (1999–2001)
- State Farm Fire and Casualty Co., Fire Claim Representative (1997–1999)
- United States Marine Corps, Sergeant, Aviation Ordnance (1987 – 1993)

PROFESSIONAL AFFILIATIONS

- Construction Management Association of America (CMAA): Certified Construction Manager (CCM)
- National Association of Construction Auditors (NACA): Certified Construction Auditor (CCA)

PUBLICATIONS AND SPEAKING ENGAGEMENTS

- “Insider Risk: Construction Focus,” StoneTurn Client Alert (July 2023)
- “Managing Risks in the Construction Financing Cycle,” Presentation - Construction & Government Law Seminar, Smith, Currie & Hancock LLP Conference (March 2023)
- “Understanding the Uncertainty Behind the EV Charging Surge,” Co-Author - JD SUPRA (December 2022)
- “Considerations for Protecting Your Construction Project During the COVID-19 Pandemic”, Co-Author – Ankura (April 2020)
- “Review for Controls, Cost Containment and Transparency in Capital Projects,” Presentation - Institute of Internal Auditors Qatar Seminar (November 2015)
- “Capital Project Performance Auditing,” Presentation - Institute of Internal Auditors San Gabriel Valley Chapter (February 2014)
- “Auditing Capital Projects & Controls,” Presentation - Airlines for America Spring Conference (March 2013)
- “Capital Project Auditing: High Risk Contractual Areas & Reviewing the Change Order Process from an Internal Audit Perspective,” Presentation - Airlines for America Audit Panel Spring Conference (March 2012)
- “Contract Risks and Controlling Costs,” Presentation - Institute of Internal Auditors Los Angeles & Seattle Chapter (November 2010 and September 2011)

TESTIMONY EXPERIENCE

- 2019: Rudolph & Sletten v. Zoological Society of San Diego – Report / Testimony / Arbitration
- 2020/2021: Yates-Northwest, a Joint Venture v. Trinity Health – Report / Arbitration
- 2023: Twitchell Technical Products, LLC v. Mechoshade Systems LLC – Report / Testimony (On-Going)
- 2023: Valentin & Grace Gable Manors, LLC v. Town of Natick – Report (Settled)
- 2023: United States of America v. Skanska USA, Inc. – Report (On-Going)
- 2024: OPS Sales Company v. Kingwood Pipe, Inc. – Report (On-Going)

Exhibit B

Marcus & Millichap Representation Agreement

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Marcus & Millichap

EXCLUSIVE REPRESENTATION AGREEMENT

THIS IS INTENDED TO BE A LEGALLY BINDING AGREEMENT. PLEASE READ IT CAREFULLY.

1. The undersigned ("Seller") hereby employs Marcus & Millichap Real Estate Investment Services ("Broker") and grants to Broker, for a period of time (the "Term") commencing on February 1, 2024, and ending at midnight on August 1, 2024, the exclusive right and authority to sell that certain real property (the "Property") located in the City of Phoenix, County of Maricopa, State of Arizona, and more particularly described as follows:

Morningstar at Arcadia
3200 East Glenrosa Avenue
Phoenix, AZ 85018
APN# 170-28-147

If the Property described above consists of more than one separate legal parcel, Seller agrees to sell all or any combination of such parcels, and the term "Property" as used herein shall refer to any such combination.

- 1) **TERMS AND CONDITIONS OF SALE:** Seller authorizes Broker to list the Property for \$32,500,000
- 2) **TITLE:** Seller represents and warrants to Broker that fee title to the Property is now vested with seller. Further that Seller and the individuals executing this Representation Agreement on behalf of Seller are duly authorized and empowered to execute this Representation Agreement and any subsequent purchase agreement, and that execution hereof shall not result in any breach of, or constitute a default under, any contract or other agreement to which Seller is a party.
- 3) **COMMISSION:** In consideration of the brokerage services to be rendered by Broker, the commission payable hereunder shall be an amount equal to the sum of one and a half percent (1.5%) of the gross purchase price paid by a purchaser to the Seller for the property sold. Commission will be paid, subject to approval and order of the United States District Court for the District of Arizona, by Seller upon the occurrence of any of the following events:
 - a. The Property is sold, exchanged, or otherwise conveyed during the Term, or any extension thereof, whether by Seller or by or through any other person or entity; or
 - b. A sale, exchange or other conveyance of the Property is made within nine (9) months after the expiration of the Term to a person or entity with whom Broker has negotiated (either directly or through another broker or agent), or to whose attention Broker has brought the Property, or who was introduced to Seller by Broker as a prospective purchaser (herein, "Prospective Purchaser"), provided that the name of any such person or entity has either been submitted to Seller by delivery of a written offer to purchase or letter of intent, prior to expiration of the Term, or by delivery to Seller by Broker of written notice of said Prospective Purchaser(s) within fourteen (14) calendar days following such expiration. With respect to a sale, exchange or other conveyance to any such prospective purchaser, Broker shall conclusively be deemed to be the procuring cause. The term "Prospective Purchaser" shall include that person or entity to whose attention Broker has brought the Property, as well as any partnership, joint venture, corporation, limited liability company, trust or other similar entity in which that person or entity has a controlling interest. Broker's entitlement to a commission vests on the day of closing, and this Agreement shall constitute an irrevocable instruction to Escrow to pay the applicable commission out of funds deposited for the closing of the transaction, as an express condition of closing. In the case of any sale accomplished through an escrow, this commission shall be paid at close of escrow, and Broker shall be entitled to make demand of any escrow holder for payment from the proceeds of sale. Broker shall be entitled to a commission only if, as and when the close of escrow and the conveyance of the Property actually occurs. If for any reason whatsoever (including, without limitation, the termination of the purchase agreement by Seller or the Prospective Purchase or any default by Seller or the Prospective Purchaser) the purchase and sale contemplated by the purchase agreement is not consummated, no portion of the commission nor any other commission or payment of any kind or nature shall be deemed earned or due and payable to Broker (and no portion of any forfeited earnest money deposit shall be payable to Broker). Except for the commission described in this agreement, neither Seller nor any of its members, affiliates or related entities shall be responsible for any other commission, fee, payment or other compensation to Broker's with respect to the Property. Broker understands and acknowledges that Seller may modify or terminate the purchase agreement as Seller deems appropriate in its sole and absolute discretion, without obtaining the consent or approval of Broker, and if the purchase agreement is terminated no portion of the commission nor any other commission or payment of any kind or nature whatsoever shall be due to Broker. If a Prospective Purchaser defaults under the terms of the purchase agreement, Seller may take any action Seller deems appropriate but shall not be obligated to commence legal or other proceedings against Prospective Purchaser. Broker and Seller acknowledge and agree that Broker is not and shall not be deemed a third-party beneficiary of the purchase agreement.


- 4) **OPERATING INFORMATION:** Seller agrees to provide Broker with items a – f listed below, to the extent in Seller’s possession or which Seller has reasonable access, as soon as reasonably practicable under the circumstances (unless otherwise specified herein):
- a. A complete and current rent roll, including a schedule of all resident move-in dates, lease expiration dates, deposits, and fees.
 - b. The detailed monthly operating statements of the Property.
 - c. All service contracts which affect the Property.
 - d. Any and all documents relating to in any way the following: (1) Special Flood Hazard Area; (2) Dam Failure Inundation Area; (3) Earthquake Fault Zone; (4) Seismic Hazard Zone; (5) High Fire Severity Area; and/or (6) Wildland Fire Area.
 - e. Any and all documents, of any type or nature, which in any way references the existence of mold or mold-related problems with the Property.
 - f. Any and all documents, of any type or nature, which in any way references the existence of lead-based paint or lead-based paint problems with the Property.
- 5) **INSPECTION OF PROPERTY:** Seller agrees that Broker and its representatives shall have the right to enter upon and inspect the interior and exterior of the Property with prospective purchasers with prior reasonable notice.
- 6) **SELLER'S REPRESENTATIONS AND WARRANTIES:** This paragraph left intentionally blank.
- 7) **DISCLOSURE OF REAL ESTATE LICENSURE:**
- 7a. License disclosure
 - 7b. License disclosure
- 8) **SCOPE OF AGENT'S AUTHORITY AND RESPONSIBILITY:** Broker shall assist Seller in marketing the Property and in negotiating the terms and conditions of sale with any prospective purchasers. Broker shall not, however, have authority to bind Seller to any contract or purchase agreement. Broker shall not be responsible for performing any due diligence or other investigation of the Property, or for providing professional advice with respect to any legal, tax, engineering, construction or hazardous materials issues. Except for confidential information regarding Seller's business or financial condition and the negotiation of the terms of a purchase agreement between Seller and a prospective purchaser, Seller and Broker agree that their relationship is at arm's length. Notwithstanding anything contained herein, Seller shall not be obligated in respect of any transaction involving the Property unless and until Seller have entered into final binding agreements with respect thereto. Seller may, at any time and in its sole and absolute discretion, accept or reject any or all offers involving the Property or withdraw the Property from the market, in each case, without liability or obligation.
- 9) **LIMITATION OF LIABILITY:** Except for Broker’s gross negligence or willful misconduct, Broker’s liability for any breach or negligence in its performance of this Agreement shall be limited to the greater of \$50,000 or the amount of compensation actually received by Agent in any transaction hereunder.
- 10) **SELLER’S REQUEST AND AUTHORIZATION FOR CONTROLLED MARKETING:** Seller hereby requests and authorizes Broker to implement a controlled marketing effort to limit as much as reasonably possible Broker’s distribution of specific marketing information regarding the subject property to only those prospective purchasers who Broker reasonably deems are qualified to purchase the property. It is additionally intended to limit as much as reasonably possible repeated distribution of specific marketing materials to the same prospective purchaser. In requesting Broker’s controlled marketing of the property, Seller acknowledges the amount of interest Broker might generate from prospective purchasers will likely be less than the amount of interest that could otherwise be created through Marcus & Millichap’s expanded marketing system which is not controlled and does not require Buyer confidentiality agreement execution for receipt of marketing information. Broker agrees to keep all information regarding the Seller and the Property confidential and will not disclose any such information to any person or use such information for any purpose other than its efforts to find a Purchaser for the Property, provided that Broker may disclose such information to any person requesting such information that Seller reasonably believes has the financial resources necessary to purchase the Property, provided that such person enters into a confidentiality agreement regarding such information for the benefit of Seller, which confidentiality agreement shall be reasonably acceptable to Seller.
- 11) **BROKER COOPERATION:** Broker is authorized to use its discretion regarding the cooperation with other duly licensed real estate brokers. The sharing of commissions received by Broker with other brokers shall be at the sole and absolute discretion of Broker. Such cooperation will be evidenced by a separate agreement between Broker and any cooperating broker. Seller agrees that, in the event any broker other than Broker or a broker affiliated with Broker is involved in the disposition of the property, Broker shall have no liability to Seller for the acts or omissions of such other broker, who shall not be deemed to be a subagent of Broker. In the event of a co-broke, Seller shall be solely responsible for the payment of any commission outlined in this agreement. Notwithstanding anything herein, the combined commission between Broker and any co-broker may not exceed the one and a half percent (1.5%) of the gross purchase price set forth herein without prior written consent of the Seller.
- 12) **ATTORNEYS' FEES:** In any litigation, arbitration or other legal proceeding which may arise between any of the parties hereto, including Broker, the prevailing party shall be entitled to recover its costs, including costs of arbitration, and reasonable attorneys' fees in addition to any other relief to which such party may be entitled.
- 13) **TAX WITHHOLDING:** Seller agrees to execute and deliver any instrument, affidavit or statement, or to perform any act reasonably necessary to carry out the provisions of the Foreign Investment in Real Property Tax Act and regulations promulgated thereunder.

- 14) **ADDENDA:** Any addendum attached hereto, and either signed or initialed by the parties shall be deemed a part hereof. This Representation Agreement, including addenda, if any, expresses the entire agreement of the parties and supersedes any and all previous agreements between the parties with regard to the Property. There are no other understandings, oral or written, which in any way alter or enlarge its terms, and there are no warranties or representations of any nature whatsoever, either express or implied, except as set forth herein. Any future modification of this Representation Agreement will be effective only if it is in writing and signed by the party to be charged.
- 15) **GOVERNING LAW:** This Representation Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.
- 16) **COURT APPROVAL:** The Seller's and Broker's respective obligations under this Representation Agreement are subject to approval and order of the United States District Court for the District of Arizona. In the event that the approval is denied by the Court this Representation Agreement shall automatically be deemed null and void, and the parties hereto shall be relieved of all further obligations and liability with respect to the subject matter of this Representation Agreement.

SELLER UNDERSTANDS AND ACKNOWLEDGES THAT BROKER IS NOT QUALIFIED TO PROVIDE, AND HAS NOT BEEN CONTRACTED TO PROVIDE, LEGAL, FINANCIAL OR TAX ADVICE, AND THAT ANY SUCH ADVICE MUST BE OBTAINED FROM SELLER'S ATTORNEY, ACCOUNTANT OR TAX PROFESSIONAL.

The undersigned Seller and Broker agree to the terms and conditions set forth in this Representation Agreement, and Seller acknowledges receipt of an executed copy hereof.

SELLER: **Glenrosa 32, LLC**

By:		Address:	17 State Street, 2 nd Floor
	_____ Allen D. Applbaum, as Receiver for ArciTerra Companies, LLC, and Related Entities		_____ New York, New York 10004
Date:	2/26/2024	Telephone:	212.430.3400
	_____		_____

BROKER: **Marcus & Millichap Real Estate Investment Services, Inc.**

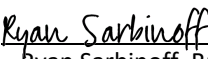
By:	DocuSigned by:  _____ Ryan Sabinoff, Broker of Record	Address:	2398 East Camelback Road Suite 300 _____ Phoenix, Arizona 85016
Date:	2/28/2024 08:45:57 PST	Telephone:	602.687.6700
	_____		_____

Exhibit C

Marcus & Millichap Declaration of Disinterestedness

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**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

**DECLARATION OF
DISINTERESTEDNESS**

Nicholas Stahler hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, to the best of his knowledge, information and belief:

1. I am a Director with the National Seniors Housing Group at Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”) with an office located at 2398 East Camelback Road, Suite 300, Phoenix, Arizona 85016. Attached as Exhibit 1 hereto is a copy of the Marcus & Millichap Knapp Stahler Group team biographies and marketing materials.

2. Marcus & Millichap conducted a conflict check for this matter in accordance with its ordinary and usual conflict check procedures. To the best of my knowledge, and

except as set forth herein, Marcus & Millichap does not hold or represent any material connection in this case.

3. Marcus & Millichap previously informed the Receiver of the absence of any material conflict.

4. Marcus & Millichap and certain of its partners, directors and associates, may have in the past represented, may currently represent, and may in the future represent parties-in-interest in this case in connection with matters unrelated to the above-captioned case. Marcus & Millichap appears in many transactions involving different entities, financial consultants and investment bankers, some of which may now and may in the future represent parties-in-interest in this case.

5. Marcus & Millichap will only provide services to the Receiver and no other party on any issue relating to this case.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Phoenix, Arizona
April 18, 2024

DocuSigned by:

Nick Staller

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Exhibit "1"

Marcus & Millichap Marketing Materials

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KNAPP STAHLER GROUP

NATIONAL SENIORS HOUSING REAL ESTATE ADVISORS

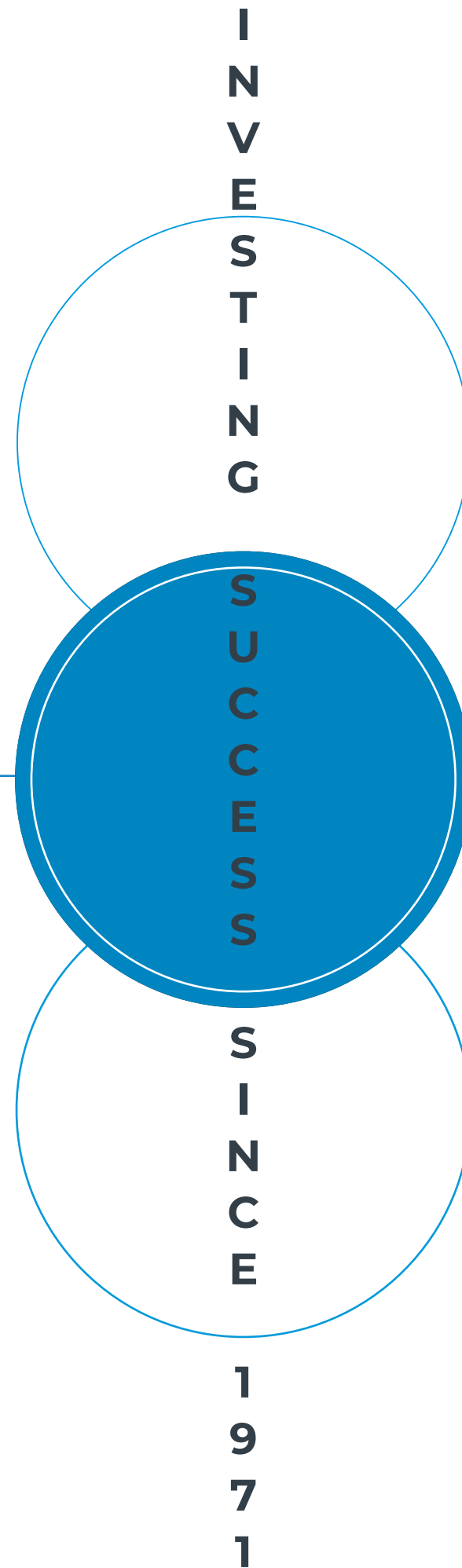
Since 1971, Marcus & Millichap has used a unique business model and unmatched service to provide our clients with an expert advantage. The experienced specialists in the National Seniors Housing Group (NSHG) carry on that legacy by offering the industry's most effective research, advisory, financing, and transactions services, each of which is tailored specifically to the unique attributes of every seniors housing property type.

With 34 seniors housing agents in 20 offices across North America, our interconnected team fosters a culture of collaboration so that we can work together for our clients' benefit. Additionally, our agents are well-versed in the spectrum of senior housing, including senior apartments, independent living communities, assisted living and memory care communities, skilled nursing facilities, and continuing care retirement communities. In addition, the Marcus & Millichap platform provides our senior housing clients with a wide array of property types to meet their investment goals for 1031 exchange opportunities. This means that we can focus solely on helping our clients realize their investment goals, no matter what it takes.

The Knapp-Stahler Group collaboration represent both east and west coasts teams of Marcus & Millichap's National Seniors Housing Group. With a combined 125+ years of experience, knowledge, and resources, together their advisors can provide the most thorough and up to date information from both local, regional, and national perspectives.

In addition to a long-standing history within the industry, the teams share:

- Market specialization
- A concern for confidentiality
- An emphasis on collaboration and teamwork
- A client-first philosophy
- A focus on building long term relationships
- Thorough underwriting practices
- Strong communication timelines
- Seamless execution of deals
- A solid track record



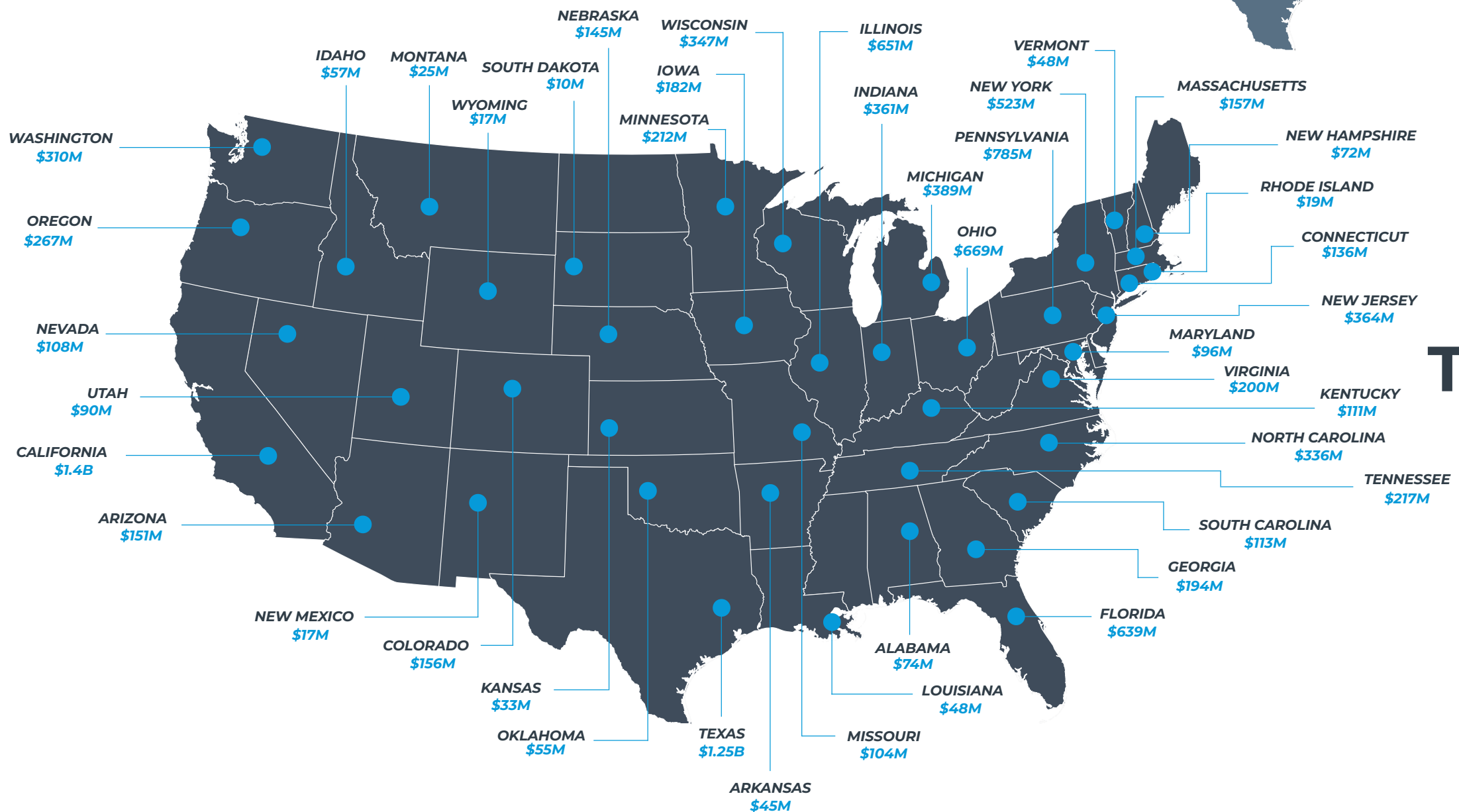
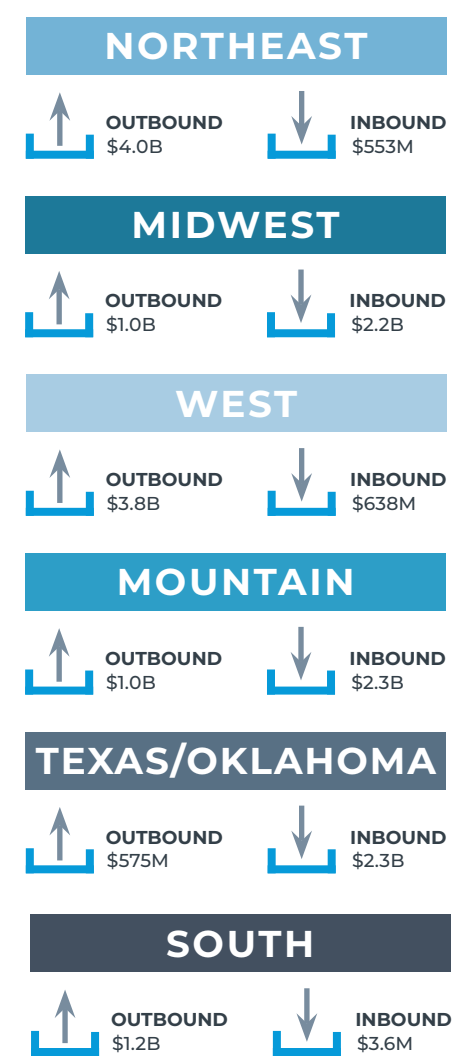
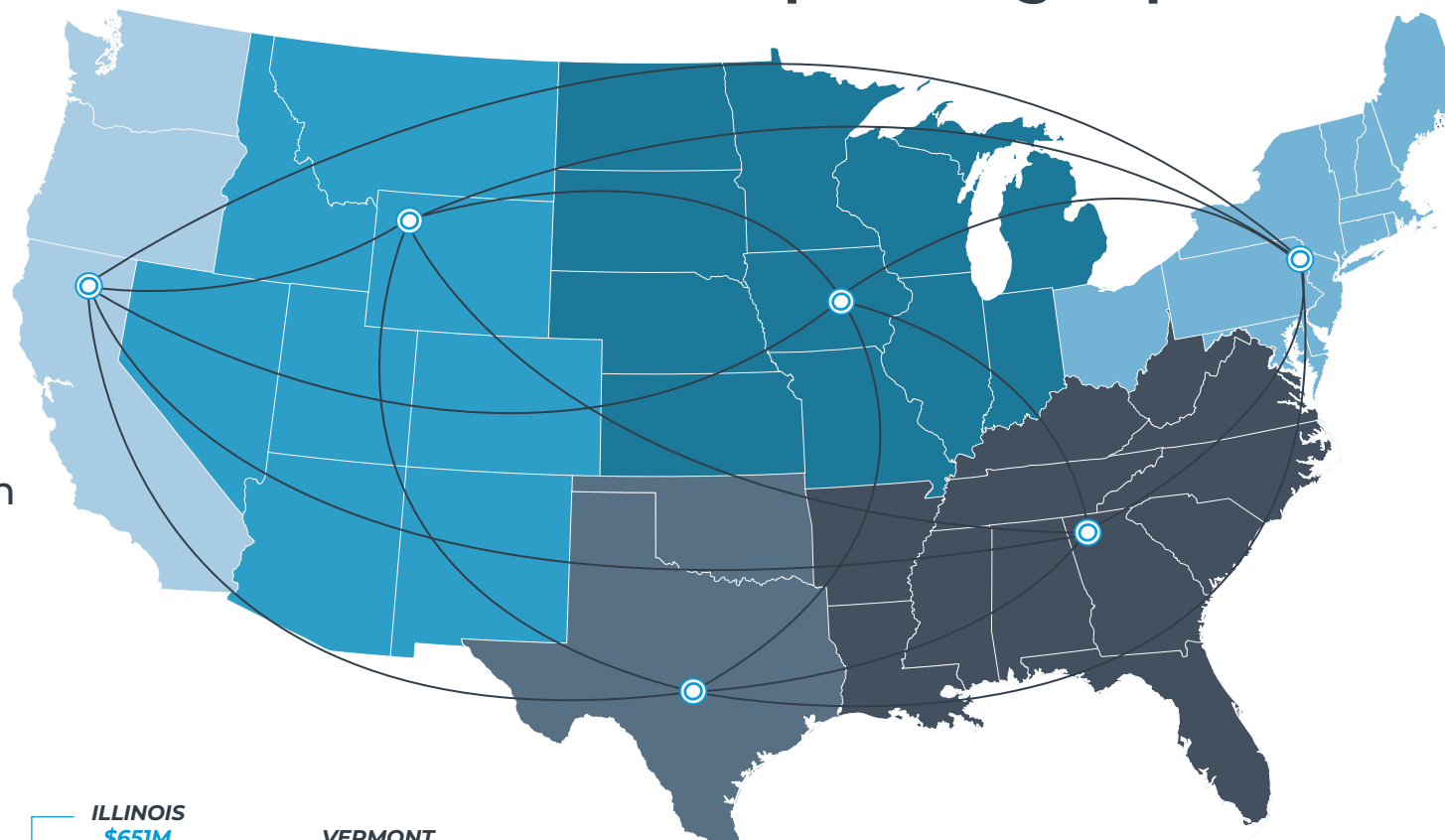
The National Seniors Housing Group prides themselves in providing market-leading strategies that are driven by an exceptional amount of experience you won't find anywhere else. Our team has changed the game as it pertains to setting high-level expectations based on transaction history, experience and overall knowledge. Our seniors housing advisors are well-versed in all property types, including, assisted living facilities, independent living facilities, skilled nursing facilities, continuing care retirement communities, long-term care communities, supportive living facilities, memory care facilities and transitional care facilities. The group's platform is defined by going beyond a single transaction to provide a consistent vehicle for acquisitions, the most competitive capital markets solutions, the industry's best research and the highest asset price achieved through the most reliable marketing process.

Marcus & Millichap
KNAPP ♦ STAHLER GROUP

Marcus & Millichap Moving Capital

NOT BOUND BY GEOGRAPHIC BOUNDARIES

Our interconnected team fosters a culture of collaboration and provides a network of advisors who can seamlessly open opportunities and close deals from coast to coast.



HONEST ADVICE TRUSTED RESULTS

Marcus & Millichap's experienced advisors have closed more than 1,600 Seniors Housing transactions across 45 states for a total of \$11.2 billion in sales.

NOTABLE CLOSINGS



Justin Knapp and Nick Stahler had the opportunity to work with Goldman Sachs Asset Management on the sale of Atria at River Trail, a stabilized, A+, IL/AL/MC asset located in the Chicago Land market.

After selecting the buyer this transaction was tied to a portfolio sale of 8 assets in total located throughout the Midwest and Northeast and closed in the mid-month of December. The entire portfolio totaled 1,059 units throughout IL, MI, PA & VA.

The marketing process, even through an evolving transactional environment, received good attention and strong offer activity from qualified investors.



Nick Stahler, Mike Mooney, and Austin Diamond of The Knapp-Stahler Group at Marcus & Millichap closed a 9-facility, 1,000+ bed Assisted Living and Skilled Nursing portfolio in the greater Dallas MSA. The portfolio offered the Buyer assumable, attractive, non-recourse HUD financing at below-market interest rates and a closing price well below replacement cost. The portfolio was rebounding from the Covid-19 Pandemic and has considerable unlocked upside which was recognized by the Buyer and their operating partner who entered into a NNN lease.

The Knapp-Stahler Group produced multiple offers for the Seller, a national private equity owner/developer, who ultimately selected a New York-based skilled nursing investment firm as the Buyer, setting a strong value-add price per bed comp within the submarket. The Buyer was selected due to their substantial financial liquidity, tenure in the seniors housing industry and their ability to recognize the considerable upside potential offered by the portfolio. Following an extensive search and vetting process, the Knapp-Stahler Group was successful in pairing the Buyer with a strong Texas based operator.



Andy Van Zee and Justin Knapp recently closed a 100-bed, Class A, Skilled Nursing facility in the Des Moines, IA MSA. The property offered the Buyer a CMS 5-Star facility with a strong quality mix; high, stable occupancy; and positive cash flow with one of the top Medicaid rates in the state. The sale set a strong price per bed comp within the submarket.

The Knapp-Stahler Group produced multiple offers for the Seller, a local owner/developer/operator, who ultimately selected the Chicago-based skilled nursing investment firm, Birchwood Healthcare Partners as the Buyer. The buyer was selected due to their experience operating skilled nursing in Iowa and strong desire to grow in the Des Moines market. This transaction was one of the first few CHOWs completed under Iowa's new administrative rules.

MARCUS & MILLICHAP KNAPP-STAHLER GROUP



JUSTIN KNAPP

*Knapp-Stahler Group Managing Partner
Director National Seniors Housing Group*



NICK STAHLER

*Knapp-Stahler Group Managing Partner
Director National Seniors Housing Group*



JAMES W. KNAPP

*Knapp-Stahler Group Managing Partner
Senior Managing Director National Seniors Housing Group*



TODD LINDBLOM

*National Director
Seniors Housing Group*



Michael Mooney
Partner



Chad Mundy
Investment Associate



Michael Inforzato
Investment Associate



Lindsey Slavik
Marketing Coordinator



Andrew Van Zee
Vice President



Austin Diamond
Investment Associate



Dee Brown
Analyst



Jake Schrier
Marketing Coordinator



Hap Knowles
Senior Associate



Joseph Knapp
Investment Associate



Jeremy Frankel
Capital Markets



Dina Sabatelli
Operations Manager

“

WHAT PEOPLE ARE SAYING ABOUT THE KNAPP-STAHLER GROUP

“Jim Knapp and his team did a tremendous job guiding us through the process of evaluating the value of our skilled nursing program. They were diligent in building an appealing offer to generate interest from a vast pool of prospective buyers. Their network of purchasers was broad and allowed us to attract and evaluate buyers from both within and outside the state. Their expertise, patience, and ability to maintain a seamless process in determining the evaluation and subsequent marketing of our skilled nursing program resulted in a favorable transaction for Henry Ford Health System.”

-Jon Polanski

President & CEO, Henry Ford Health System, Community Care Services

“I never had to be concerned about the question of Jim’s integrity or honesty. The Knapp-Stahler group brings sales from the beginning to end successfully and cleanly without any surprises.”

-Paul VerLee

Owner, Village Rehab and Care Community

“Ensign has had the privilege of working with Nick Stahler for years. Nick has been an excellent resource for growth opportunities for us and he always helps foster a reasonable and fair approach to each negotiation. We look forward to working with Nick and his team for years to come.”

-Chad Keetch

*Chief Investment Officer
EVP and Secretary, Ensign Services, Inc.*

“Nick and I have worked together for several years on transactions and he and his team have always run a well thought out and fair process. I look forward to working with him more at M&M when opportunities arise for our firms to work together!”

-Jason Dopoulos

*Managing Partner
White Oak Healthcare Partners*

“We have had the pleasure of closing many Senior Housing deals with the Knapp-Stahler Group during this last decade. I can speak from personal experience of their well-run process, expertise, and vast knowledge to the Senior Housing space.”

-Adam M. Bandel

*Managing Director Seniors Housing
Pacifica Companies*

“The Knapp-Stahler Group cares about their clients, seeks to understand what the objectives are, and follow up in a very timely manner. They see the trends and know what is happening in the industry. They have been able to provide us with very effective advice.”

-Roger Myers

CEO, Presbyterian Villages of MI

“Nick Stahler is an absolute pleasure to work with on transactions. I can say from personal experience that he is creative, honest and very resourceful. In addition, he makes sure to always be fair to both sides and ensure a smooth process. One thing that is special about Nick is that even when there is a difficult situation in a deal, he stays calm and immediately works to figure out a good solution. Next would welcome the opportunity to work with Nick again on future opportunities.”

-Michael Zamir

Managing Principal, Next Healthcare Capital

”



JUSTIN KNAPP

Knapp-Stahler Group Managing Partner
Director National Seniors Housing Group

Dir: (248) 450-5366

Cell: (810) 599-9216

Lic MI: 6501348663

jknapp@ipausa.com

Justin started his career in seniors housing investment sales right out of college in 2006 and had the opportunity to learn and grow from one of the best in the industry. Under the guidance of his father Jim Knapp, who has been an integral part in the evolution of the brokerage community for seniors housing specifically in the Midwest, Justin rapidly grew in his skills and knowledge base.

Since, Justin has played an integral role not only in the sales of seniors housing facilities but strongly believes in the consultative side that is involved beforehand in giving clients good actionable information to work off as they make decisions on next steps for their facilities. He has worked with single asset owner operators, Non-Profits, institutional owners, and REITs in the sale of their IL, AL, MC, and SNF type properties.

Justin is now one of the leading seniors housing brokers at Marcus & Millichap and was one of the founders of The Knapp-Stahler Group. This group comprises of agents and backroom staff that are strictly focused on seniors housing and have been strategically placed within market areas throughout the nation giving his team true national market coverage. Justin's role as managing partner is to continue to cultivate new business from single asset to major portfolios and to manage the eastern contingent of the team in their business development, deal management, and internal networking.

Justin currently resides in southeast Michigan on 8 acres with his wife and 4 children. He received his business degree at Indiana Wesleyan University and has been serving his local community as a paid-on call Firefighter/Paramedic for the last 15 years.

NICK STAHLER

Knapp-Stahler Group Managing Partner
Director National Seniors Housing Group

Dir: (949) 419-3206

Cell: (714) 742-2430

Lic CA: 01722556

nstahler@ipausa.com



Nick Stahler has been a leading senior housing investment broker for over 16 years and was named a Seniors Housing Influencer in 2021 by Globe St. Real Estate Forum. He currently manages the Knapp-Stahler Group, the top producing team of Marcus and Millichap and Institutional Property Advisors National Seniors Housing Group. His acumen for finance and his passion for the Seniors Housing and healthcare facility field has produced a distinguished track record within the seniors housing marketplace. He has closed nearly \$1.4 billion in healthcare real estate, including independent living, mental/behavioral health, adult day care, assisted living, memory care, skilled nursing, and CCRCs. Nick's real estate background includes working in wholesale lending and private capital multi-family investment sales. Furthermore, Nick was a licensed assisted-living administrator, giving him an in-depth grassroots knowledge of the senior care industry. The combination of Nick's brokerage expertise and understanding of the senior care industry have drawn buyers and sellers to his ability to achieve optimum results in even the most complex transactions. It is this expertise that affords him the unique ability to provide comprehensive and superlative services to his team and clients.

Nick holds a BA in Business Administration with an emphasis in Finance from California State University, Fullerton. He was one of the first students to enroll in their business-honors program and he was on the dean's list 6 out of his 8 semesters.



JAMES W. KNAPP

Knapp-Stahler Group Managing Partner
Senior Managing Director National Seniors Housing Group
Dir: (248) 450-5365
Cell: (517) 304-4600
Lic MI: 6502131701
jim.knapp@marcusmillichap.com

Jim has been in the healthcare and investment real estate advisory industry for over 25 years. Having served numerous area hospitals, senior housing providers, medical practitioners, and investors, Jim is a trusted source for market studies, site identification and property dispositions.

Marcus & Millichap entered the Michigan market in 1998. Jim was one of the initial senior agents brought on board to trail blaze a path for a new Michigan-based seniors housing and healthcare group. Since entering this business, he has generated a significant market share of nursing home, assisted living, memory care, and independent living business sales and acquisitions. Aside from the 8-9 major portfolio sales (10+ facilities) that have transpired in the last two decades, Jim has facilitated the consummation of over 60 separate transactions encompassing over 80 facilities with over 6,200 beds in Michigan alone.

Jim Knapp's team at Knapp - Stahler Group Seniors Housing Advisors of Marcus & Millichap has seasoned investment advisors working in a participatory and advisory capacity for upcoming seniors housing developments and transitions. Our investment advisors are deployed in specific states so we can assist our clients in navigating the different nuances in their local markets. Our affiliation with the Stahler Group provides a more seamless vehicle for representing clients nationally.

Jim holds the highly-regarded Certified Commercial Investment Member (CCIM) designation and is a member of the Health Care Association of Michigan and LeadingAge of Michigan.

TODD LINDBLOM

National Director Seniors Housing Group
Dir: (262) 364-1964
Cell: (414) 507-9257
Lic WI: 56133-90
todd.lindblom@marcusmillichap.com



Todd E. Lindblom is a Vice President and the Regional Manager of Marcus & Millichap's Milwaukee and Minneapolis offices. In addition, he serves as the National Director for the Seniors Housing Division.

Todd joined the firm's Milwaukee office in 2011 as an Associate Vice President Investments, specializing in the sale of multifamily properties. He joined the management team in June 2015 as Sales Manager of the Milwaukee office, and was promoted to Regional Manager in February 2016. Todd was appointed to National Director for the Seniors Housing Division in February 2020.

Todd earned a bachelor of business administration degree with an emphasis in finance from St. Norbert College in DePere, Wisconsin.



MICHAEL MOONEY

Knapp-Stahler Group Partner and Senior Associate

Dir: (503) 200-2037

Cell: (503) 428-7058

Lic OR: 201203119

michael.mooney@marcusmillichap.com

Michael Mooney has been in the senior housing and healthcare business for the past 20 years. Michael is driven by his desire to assist owners, operators, developers, and investors in achieving their goals. Michael's experience includes 13 years with the National senior housing and healthcare valuation and consulting firm Tellatin (now IRR) as well as seven years of mergers and acquisition work. During his tenure at Tellatin, Michael worked on over 500 appraisal and market study assignments in 36 states including independent living, assisted living, memory care, and skilled nursing. This experience has provided Michael with a unique perspective which has been proved invaluable to his clients. Michael resides in Oregon and has worked extensively across the country with primary emphasis in the West Coast and Southwest. Prior to entering the senior housing and healthcare industry, Michael served as an auditor for the State of Alaska Division of Legislative Audit where he attained his CPA license and served in various accounting functions for the Department of Administration and the Department of Health and Human Services. Michael attended the University of Oregon where he received a bachelor's degree in accounting and finance from the Charles H. Lundquist College of Business.



JOSEPH KNAPP

Investment Associate

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Cell: (608) 434-9409

Lic MI: 6501398621

joseph.knapp@marcusmillichap.com

Joseph Knapp is an investment associate with the Knapp-Stahler Group Seniors Housing Advisors of Marcus and Millichap. Joseph joined the firm in 2015 and specializes in seniors housing investment advisory in the Mid-Atlantic region. One of Joseph's main objectives is to advise owners of seniors housing projects on how to stage and position their assets to maximize their value for a future sale. He also manages the underwriting of real-time valuations and represents for-profit and not-for-profit clients in the disposition and acquisition of seniors housing communities. Joseph is a business member of LeadingAge PA which is Pennsylvania's premier resource group for not-for-profit long-term care providers. Joseph graduated from Lawrence Technological University with a Bachelor of Science degree in Mechanical Engineering.

HAP KNOWLES

Senior Associate

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Hap Knowles joined Marcus & Millichap in 2013 and is associated with the Newport Beach office. Since his inception to the firm, he has worked as an investment specialist to deliver the highest level of service, accountability, and expertise to his clients. Hap exclusively represents buyers and sellers of Healthcare Assets including Independent Living, Assisted Living, Skilled Nursing, CCRC's and Memory Care Facilities across the country. With a national team backing, his current focus is primarily in the Southwest region and is a member of the National Seniors Housing Group. Hap brings over seven years of experience to The Knapp-Stahler Group backed by the extensive resources of the nation's premier real estate investment brokerage firm. Hap graduated from Chapman University, with a Bachelor of Science degree in business administration with an emphasis in finance and real estate. While attending the Argyros School of Business and Economics, was an executive board member of the professional business fraternity Alpha Kappa Psi, the team captain of Chapman's men's varsity lacrosse program and a member of the Chapman Real Estate Association (CREA).

ANDREW VAN ZEE

Vice President

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Andy has experience in practice to health facilities in the Indiana, Illinois, Iowa, Kentucky, Missouri, Nebraska, and South Carolina. Prior to joining Knapp Group, Andy founded a healthcare consulting firm that specialized in Certificate of Need regulations and market analysis for new or existing health care facilities in the Midwest. Andy has also served as in-house counsel at Mainstreet Property Group, LLC where he oversaw the Certificate of Need approval for 10 new skilled nursing facilities in 5 states. As an attorney, Andy has experience with healthcare real estate and non-profit formation, unrelated business taxable income, sales tax exemptions, and property tax exemptions. Andy earned a bachelor's degree in political science from South Dakota State University and a juris doctorate from Western Michigan University, Thomas M. Cooley Law School. He lives in Carmel, Indiana, with his wife and three children.



AUSTIN DIAMOND

Investment Associate

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Austin Diamond joined Marcus & Millichap in 2020 as an associate managing new business development for the Dallas arm of The Stahler Group. Specializing in seniors healthcare assets throughout Texas, Austin utilizes the M&M platform to seek out valuable investment and sales opportunities on behalf of his clients. His local expertise, deep-rooted relationships with investors and M&M's expansive reach positions an owner's asset for the greatest return on investment. Austin applies M&M's proprietary technology to properly market properties for maximum exposure. Prior to joining M&M, Austin served as an associate on a retail investment properties team. He was responsible for new business development, in-depth market research, and documentation. He gained valuable experience and increased his passion for working in the real estate industry. Austin brings proactive solutions to the table by thoroughly understanding the business needs and objectives of his clients. As an import to Texas, Austin's time at Southern Methodist University provided him valuable insight to the Texas market.



CHAD MUNDY

Investment Associate

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Chad Mundy has been a leader in Seniors Housing operations for over 20 years. He has extensive experience in operating Skilled Nursing, Assisted Living, Independent Living, and Memory Care facilities, as well as in leadership roles in clinics and hospitals. His acumen and passion for seniors and healthcare have given him the skillsets necessary to lead in this industry, helping companies translate their business goals to reality. Chad holds an MBA in Business Administration from the University of the Pacific, a BS in Long Term Healthcare, and a BBA.

MICHAEL INFORZATO

Investment Associate

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Michael Inforzato's career trajectory has been characterized by remarkable versatility and an unwavering commitment to excellence. With a foundation in Physical Therapy, he embarked on a journey that would encompass healthcare and patient-centric care. Transitioning into an operational leadership role, he managed a diverse array of facilities across the Northeastern United States, including skilled nursing, assisted living, independent living, and memory care. This diverse portfolio solidified his reputation as an expert in the field.

Notably, Michael excelled in optimizing a facility's Case Mix Index, showcasing both his operational and financial acumen. His innovative approach included integrating community activities into Continuing Care Retirement Communities (CCRCs), enhancing residents' quality of life while bolstering the communities' financial health. Furthermore, Michael consistently demonstrated his proficiency in launching memory care startup programs, attesting to his ability to identify and capitalize on emerging market opportunities.

Today, as part of Marcus & Millichap's Seniors Housing Division, Michael's extensive background uniquely positions him as a senior housing broker. His deep understanding of healthcare operations, financial expertise, and innovative thinking enable him to navigate the intricacies of the senior housing market. Clients can rely on his seasoned experience to identify strategic investment opportunities and provide expert guidance, reflecting his unwavering passion for this field. Michael's journey, from healthcare to operational leadership and now to senior housing brokerage, is a testament to his adaptability and his ability to make a profound impact in the industry.

DEE BROWN

Analyst

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Dee Brown joined Marcus & Millichap in 2021 as an analyst for the National Seniors Housing Group. Her experience includes over 10 years as a seniors housing analyst with the National senior housing and healthcare valuation and consulting firm Tellatin (now IRR) specializing in the full spectrum of seniors housing and healthcare properties. Dee graduated from the University of Oregon with a B.A. in Political Science.



JEREMY FRANKEL

Capital Markets
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Jeremy Frankel has over 20 years of healthcare finance experience. He has spent most of the last 15 years originating mortgage banking business nationwide. In addition to business development, Mr. Frankel has an extensive background in evaluating credit opportunities as well as overseeing financial and industry due diligence. He has been directly involved in over \$900 million in financings including several landmark transactions, portfolio refinancings, and urban construction projects. Since 1998, Jeremy has been directly involved in underwriting multifamily and senior care facilities and has received full authorization from the Department of Housing and Urban Development to underwrite nursing, assisted living, and board and care facilities under HUD'S LEAN processing program. Jeremy received a B.S. in finance and international business from the University of Maryland. He is a member of the Mortgage Bankers Association and the National Investment Center for the Seniors Housing & Care Industry. He is also active in the Guardians of the Los Angeles Jewish Home for the Aging and served as former Treasurer for the Western Mortgage Advisory Counsel.

DINA SABATELLI

Operations Manager
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Dina Sabatelli started her career with Marcus & Millichap in 2018 as a brokerage administrator and marketing coordinator, assisting all agents within the Orange County office. In doing so, she's managed countless listings and has been involved in 1,000+ transactions. Dina joined the Knapp-Stahler Group in 2022 as the Operations Manager. Her enthusiasm for the business has heightened her ability to maintain strong connections with clients, providing excellent communication and strong work-flow. Dina is a graduate of Chapman University with a Bachelor of Science degree in environmental science and a minor in business.



JAKE SCHRIER

Marketing Coordinator
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Jake graduated from Pepperdine University with a B.A. in Advertising and a concentration in Marketing, bringing creative design skills to The Knapp-Stahler Group at Marcus & Millichap. He has gained valuable experience over the years in a marketing setting, specializing in photography and videography. He has been involved in a wide array of marketing campaigns as well as creating content for a multitude of social media outlets. Jake was the Historian of Alpha Tau Omega at Pepperdine, while also interning with a healthcare company. With a passion for creative design, Jake values clear, concise, and aesthetic messaging design.

LINDSEY SLAVIK

Marketing Coordinator
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Lindsey graduated from Michigan State University with a B.A. in Advertising. Lindsey began her career in the sign industry where she gained valuable experience about brand management and recognition. After transitioning to the print industry, she coordinated entire campaigns where she focused on both print and social media outlets. Over the years, Lindsey has developed a passion for graphic design. She uses her skills to build eye-catching graphics to help brand her client's vision. Lindsey started with The Knapp-Stahler Group in 2020 and is excited for the opportunity to build and grow their client base. Lindsey lives with her husband and three children.

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Exhibit D
Stalking Horse Agreement

ASSET PURCHASE AGREEMENT

(Morningstar at Arcadia – 3200 East Glenrosa Avenue, Phoenix, Arizona 85018)

This Asset Purchase Agreement (this “**Agreement**”) is entered into as of April 16, 2024 by and between SSOF II ARCADIA PROPCO, LLC, an Arizona limited liability company, and its permitted assigns (“**Buyer**”), and Allen D. Applbaum (the “**Receiver**”), solely in his capacity as receiver for GLENROSA 32, LLC, an Arizona limited liability company (the “**Seller**”).

WITNESSETH

WHEREAS, the Receiver has been appointed as receiver for Jonathan M. Larmore, ArciTerra Companies, LLC and related entities, including Seller (collectively, the “**Receivership Estates**”) pursuant to that certain Order Appointing Temporary Receiver and Temporarily Freezing Assets and Imposing Litigation Injunction dated December 21, 2023 (the “**Receivership Order**”) issued by the United States District Court for the District of Arizona (the “**Court**”), Case No. 23-CV-02470-PHX-DLR; and

WHEREAS, pursuant to the Receivership Order, the Receiver is authorized to take and have complete and exclusive control, possession, and custody of all of Seller’s rights, title, and interests in the Seller’s property; and

WHEREAS, Seller is the owner of that certain real property located at 3200 East Glenrosa Avenue, Phoenix, Arizona, together with any buildings and improvements thereon, more particularly described on **Schedule A-1** annexed hereto and made a part hereof (the “**Real Property**”), and related personal property as described on **Schedule A-2** (the “**Personal Property**”) and together with the Real Property and the Intangible Property, as hereinafter defined, collectively the “**Property**”), currently operated as an assisted living and memory care facility operating under the name “Morningstar at Arcadia” (the “**Facility**”); and

WHEREAS, the Receiver has determined that it is in the best interests of the Receivership Estates and their beneficiaries to designate Buyer as the stalking horse bidder and to consummate the transactions provided for herein pursuant to proposed orders of the Court and Buyer desires to purchase the Property pursuant to those terms and conditions and this Agreement.

NOW, THEREFORE, in consideration of the premises and the respective undertakings of Seller and Buyer hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which consideration are hereby acknowledged, it is hereby agreed as follows:

I.
DEFINITIONS

1.1 Definitions.

For purposes of this Agreement, the following terms have the meanings specified or referenced below.

“**Agreement**” has the meaning set forth in the introductory paragraph.

“**Auction**” shall mean the auction scheduled by the Court in the Bidding Procedures Order

to consider higher and better offers as determined by the Receiver for the purchase of the Property.

“**Auction Price**” means the highest and best sale price for the Property established at the conclusion of the Auction.

“**Bidding Procedures Order**” shall mean such Order entered by the Court, substantially in the form annexed hereto as Exhibit I, that, *inter alia*: (i) schedules the Auction and Sale Hearing, (ii) approves bidding procedures for bidders to submit offers for the Property at the Auction, and (iii) approves and authorizes payment of the Breakup Fee from the Prevailing Bidder sale proceeds to the Buyer, in the event the Prevailing Bidder is not the Buyer.

“**Breakup Fee**” means 2% of the Purchase Price (\$565,000) and payable to Buyer from the sale proceeds of sale to a Prevailing Bidder other than Buyer.

“**Buyer**” has the meaning set forth in the Preamble to the Agreement.

“**Closing**” has the meaning set forth in Section 5.1 of the Agreement.

“**Closing Date**” has the meaning set forth in Section 5.1 of the Agreement.

“**Contracts**” means all leases of furniture, fixtures and equipment, and all contracts, leases, and agreements relating to the ownership, maintenance and/or operation of the Facility and/or the Property, copies of which are provided to Buyer with the Due Diligence Materials, together with, as applicable and to the extent in Seller’s actual possession (a) all related written warranties and guaranties, and (b) all other contracts, leases, and agreements entered into by Seller after the Effective Date as permitted pursuant to Section 7.1.

“**Consumable Inventories**” means all merchandise, food and beverages held for sale in connection with the operation of the Facility.

“**Court**” means the United States District Court for the District of Arizona.

“**Due Diligence Materials**” means the Contracts, Real Estate Agreements, and any other data, documents or other information supplied by the Receiver, the Receivership Estate, the Broker and their representatives to Buyer in connection with Buyer’s purchase and inspection of the Property.

“**Earnest Money**” has the meaning set forth in Section 3.2 of the Agreement.

“**Encumbrances**” means liens, mortgages, pledges, security interests, restrictions, judgments, prior assignments, liabilities, obligations, encumbrances, charges, tenancies, licenses, covenants, successor or transferee liabilities and claims of any and all nature and description whatsoever.

“**Equipment**” means all equipment (as defined in the Uniform Commercial Code) located at the Facility.

“**Excluded Assets**” means the Excluded Documents, cash, cash equivalents, checks and other funds, including, without limitation, Seller’s Accounts Receivable (other than the proration of

rent for the Current Month, as set forth in Article XI below), notes, securities and other evidence of indebtedness held at the Facility as of the Closing Date, balances on deposit to the credit of Seller with banking institutions (all of which shall be retained by Seller), and those Contracts listed in the Service Contract Termination Notice.

“Excluded Documents” means all (a) the corporate minute books and stock registers of Seller, (b) internal memoranda, correspondence, analyses, documents or reports prepared by or for Seller or its Affiliates in connection with the sale of the Property, including, without limitation, tax returns or financial statements of Seller (exclusive of operating statements and the general ledger of the Facility and any supporting information which shall be available for review by Buyer) for or in connection with its ownership or operation of the Facility and Property, and (c) communications between Seller or any Affiliate and their respective attorneys.

“Excluded Liabilities” means, collectively, (i) all judgments or orders entered against Seller or any prior owner of the Facility (a “Prior Owner”), (ii) all liabilities existing as of the Closing for violations of law related to any period prior to the Closing, (iii) all liabilities created or arising from the operation of the Facility at any time prior to Closing, (iv) any tax liabilities of the Seller or any Prior Owner, (v) any liabilities or obligations resulting from any of the Contracts and applicable to any period prior to the Closing, (vi) any obligations or liabilities under the Existing Management Agreement, (vii) any fines, penalties, levies, assessments or similar obligations arising under applicable law with respect to any period prior to the Closing, (viii) any liability or obligation with respect to any period prior to the Closing related to the items pro rated under Article XI, (ix) any liabilities, obligations or breaches relating to any of the Licenses with respect to any period prior to Closing, and (x) any other liability of the Seller or any Prior Owner that is not expressly assumed pursuant to this Agreement.

“Existing Management Agreement” means the Management Agreement by and between Glenrosa 32, LLC and the Property Manager dated December 1, 2011.

“Insurable Title” means good and marketable title to the Real Property, free and clear of any and all Encumbrances, except Permitted Encumbrances.

“Intangible Property” means all (a) local telephone and facsimile exchange numbers identified exclusively with the Facility, (b) transferable certificates (including the certificate of occupancy for the Real Property), licenses, permits and warranties (specifically including all construction and equipment warranties and guarantees) now in effect with respect to the Property, at no cost to Seller, (c) all general intangibles relating to design, development, operation and use of the Facility, all rights and work product under construction, service, consulting, engineering, architectural, design and construction agreements (including any warranties contained therein) and other Contracts, and plans and specifications of any portion of the Facility, and all development rights and goodwill related to any portion of the Property, (d) the Intellectual Property Rights, and (e) all other intangible property used by Seller exclusively in connection with the ownership and operation of the Facility, but excluding the Excluded Assets.

“Intellectual Property Rights” means all patents, copyrights, trade secrets, trademarks, trade names, service marks, confidential information and other know-how owned by Seller or its Affiliates or used by Seller or its Affiliates in managing the Facility, including but not limited to (a) marketing and management intangibles, (b) all proprietary computer software developed and owned by Seller or its

Affiliate, if any, (c) all proprietary manuals, instructions, policies, procedures and directives issued by Seller or its Affiliates to its employees at the Facility, and (d) Proprietary Marks.

“Inventory” All Consumable Inventories, Supply Inventories, and other materials and supplies used in connection with the operation of the Property and located thereat.

“Licenses” shall mean licenses, permits, approvals, entitlements, and other governmental authorizations (including, but not limited to, certificates of occupancy, certificates of need, insurance commission approvals, Medicare or Medicaid provider agreement approvals or other approvals, if applicable) issued by a governmental or administrative agency or authority (whether federal, state or local) in Seller’s possession or control in connection with the ownership, operation, planning, development, construction, use, or maintenance of the Facility.

“Parties” refers to the Buyer and Seller together.

“Permitted Encumbrances” has the meaning given thereto in Section 6.2.

“Personal Property” means, collectively, all personal property located at the Real Property and used in connection with the operation of the Facility, including, without limitation, the items listed on Schedule A-2 together with all Equipment and Inventory.

“Prevailing Bidder” means the bidder who submits the Auction Price.

“Property Manager” means Morningstar Senior Management, LLC.

“Proprietary Marks” means all trademarks, service marks, trade names, trade dress, symbols, logos, slogans, designs, insignia, emblems, devices, distinctive designs of signs, or any other source identifying feature, or combinations thereof, which are used to identify the Facility or Seller’s, or its Affiliates’, services at the Facility, or which are used in connection with the operation of the Facility.

“Qualified Bid” means a bid submitted in the Auction by a Qualified Bidder.

“Real Property” has the meaning set forth in in the Preamble to the Agreement.

“Receivership Estates” has the meaning set forth in the Preamble to the Agreement.

“Resident Agreements” means those leases, occupancy, residency, and similar written agreements entered into with residents of the Facility, and all amendments, modifications, supplements, renewals, and extensions thereof in the actual possession or control of Seller, copies of which have been provided to Buyer.

“Sale Hearing” means the hearing date scheduled by the Court to consider and approve the sale of the Property and entry of the Sale Order.

“Sale Motion” means that certain motion filed by the Receiver on behalf of the Receivership Estates and Seller seeking entry of the Bidding Procedures Order and Sale Order.

“Sale Order” means an Order of the Court, substantially in the form annexed hereto as Exhibit J, authorizing and approving, *inter alia*, (i) the sale of the Property to Buyer on the terms

and conditions set forth herein, free and clear of all Encumbrances.

“**Seller**” has the meaning set forth in the introductory paragraph of the Agreement.

“**Supply Inventories**” means all china, glassware, silverware, linens, uniforms, works of art, materials and supplies in Seller’s actual possession or control or located at the Property used or intended for use but not for sale in connection with the operation of the Facility at normal operating levels.

II. PURCHASE AND SALE

2.1 Purchased Assets. Subject to the terms and conditions hereof, Seller shall sell, assign, transfer and convey to Buyer, free and clear of all Encumbrances other than Permitted Encumbrances, Seller’s right, title and interest in and to the Property, including:

2.1.1 The Real Property, together with all rights, easements, tenements, and appurtenances pertaining to or inuring to the benefit of Seller or the Real Property;

2.1.2 All improvements, structures and fixtures owned by Seller and placed, constructed on or installed on the Real Property (including buildings, structures, fixtures, and other permanent improvements located thereon or therein, including, without limitation, walkways, driveways, parking lots, plumbing, lighting, electrical, mechanical and HVAC systems, components, equipment and fixtures installed thereon, and all rights, benefits and privileges appurtenant thereto, collectively, the “**Improvements**”);

2.1.3 The Resident Agreements, with the collected rents prorated through the date of Closing and the credit for security deposits thereon pursuant to Section 11.1.3 herein;

2.1.4 All records, surveys, title notes, title policies, repair histories, equipment and other warranties, termite bonds and reports, environmental studies, leasing information, financial records, architectural and engineering plans, and other instruments and items which relate to the Land, the Improvements or the Resident Agreements, which are in the present possession or control of the Seller (the “**Records**”); and

2.1.5 All Personal Property, Contracts and other Intangible Property (including Licenses to the extent assignable), except for those Contracts listed on Exhibit A (the “**Excluded Contracts**”).

2.2 Assumption of the Contracts. Buyer or its assignee shall, on and as of the Closing Date, at its sole cost and expense, assume and agree to pay all sums and perform, fulfill and comply with all other covenants and obligations which are to be paid, performed and complied with by Seller under the Contracts, except for the Excluded Contracts, which first arise or accrue on and after the Closing Date.

2.3 Assumption of the Resident Agreements. Buyer or its assignee shall, on and as of the Closing Date, at its sole cost and expense, assume and agree to perform, fulfill and comply with all covenants and obligations which are to be performed and complied with by Seller under the Resident Agreements which first arise or accrue on and after the Closing Date.

2.4 Excluded Liabilities. The transfer of the assets and rights described in Sections 2.1 through 2.3 shall not include the Excluded Liabilities. The Sale Order shall approve the Transfer of the Property free and clear of all Excluded Liabilities and Encumbrances, except for Permitted Encumbrances. Following Closing, Buyer shall be entitled to rely on the Sale Order, and refer all demands and inquiries related to any Excluded Liabilities to the Court, which shall retain jurisdiction to enforce the terms of the Sale Order. The provisions of this Section shall survive Closing.

2.5 License to Operate. Upon execution of this Agreement and payment of the Initial Earnest Money (as defined below), Buyer shall submit to the applicable governmental authority such documents as may be required in order to obtain a License to operate the Facility as an assisted living facility and Seller shall deliver or make available such information and documents as may be necessary in connection with such submission.

III.

PURCHASE PRICE AND EARNEST MONEY

3.1 Purchase Price. The purchase price (the “**Purchase Price**”) for the Property shall be the higher of (a) Twenty-Eight Million Two Hundred Fifty Thousand and 00/100 Dollars (\$28,250,000.00), or (b) the Auction Price submitted by the Buyer at the Auction. The Purchase Price shall be payable by wire transfer in immediately available funds to the Title Company for disbursement to Seller or as Seller directs at Closing.

3.2 Earnest Money. An initial earnest money deposit in the amount equal to five percent (5%) of the Purchase Price (\$1,412,500) (the “**Initial Earnest Money**”) shall be deposited by wire transfer in escrow with First American Title Company, Tel. (909) 518-0522, Attn: Ms. Phyllis Chambers, Email: chambers@firstam.com (the “**Title Company**”) upon execution of this Agreement by Buyer. In the event that Buyer is selected as the Prevailing Bidder or Backup Bidder (as defined below) at the Auction, then within two days following such selection, Buyer shall deposit an additional earnest money deposit in an amount equal to five percent (5%) of the Purchase Price after the Auction (the “**Additional Earnest Money**”) and together with the Initial Earnest Money, the “**Earnest Money**”).

3.3 Transfer Taxes. All transfer taxes (including, without limitation, real estate transfer taxes) shall be paid by Buyer at Closing.

3.4 Allocation of Purchase Price. Seller and Buyer have agreed upon an allocation of the Purchase Price (the “**Allocated Purchase Price**”), among the Real Property, Personal Property and Intangible Property, as set forth on Exhibit B. In the event the Parties are unable to reach agreement on the Allocated Purchase Price, the Receiver may seek entry of an Order from the Court, on ten (10) days notice to Buyer, fixing the Allocated Purchase Price.

IV.

SALE SUBJECT TO APPROVAL OF THE COURT

4.1 Sale Motion. In connection with the transactions contemplated by this Agreement, the Receiver shall accept only the “highest and best” offer for the Property (in Receiver’s discretion and as approved in the Auction). The Parties acknowledge it is a condition precedent to the Closing

that Receiver obtain approval of the sale from the Court. Upon execution of this Agreement by each of the Parties, the Receiver, on behalf of the Receivership Estates and Seller, shall file with the Court, the Sale Motion seeking entry of the Bidding Procedures Order and Sale Order. The Receiver shall affix a true and complete copy of this Agreement to the Sale Motion filed with the Court.

4.2 Court Filings. The Receiver agrees to diligently prosecute the Sale Motion and seek entry of the Bidding Procedures Order and Sale Order. The Receiver shall use his best efforts to cause the Sale Order to be entered and become a Final Order as soon as practicable after entry. Notwithstanding the foregoing, nothing in this Agreement precludes the Parties from consummating the transactions contemplated by this Agreement if the Sale Order has been entered and has not been stayed.

4.3 Auction. The Auction shall be held at a place approved by the Bidding Procedures Order and will be held to consider higher and/or better offers submitted by Qualified Bidders, as defined in Section 4.4, to purchase the Property on such date as determined by the Court. The Auction shall continue until there is only one bid that is the highest and best bid, which is the Auction Price. The Earnest Money submitted by Buyer shall be irrevocable and nonrefundable until the closing of the sale of the Property to the Prevailing Bidder, at which time, the Earnest Money shall be repaid to Buyer, together with the Breakup Fee as provided by the Bidding Procedures Order.

4.4 Qualified Bidders. To be determined a qualified bidder (a “**Qualified Bidder**”), one must:

(i) provide a fully executed purchase and sale agreement for the Property in form substantially similar to this Agreement (“**Qualified Bid PSA**”), acceptable to the Receiver in his sole discretion;

(ii) provide an earnest money deposit (the “**Bid Deposit**”) by wire transfer or cashier’s check in the amount of five percent (5%) payable to the Receiver, which amount shall be non-refundable to the Qualified Bidder that is deemed the Prevailing Bidder at the Auction if for any reason (a) the Prevailing Bidder fails to finally close the purchase and sale such that title transfers by no later than the Closing Date or (b) the Prevailing Bidder fails to provide the balance of the purchase price to the Receiver one day prior to the Closing Date;

(iii) provide proof of funds in such form as shall be required by Receiver. Each Qualified Bidder must provide the Qualified Bid PSA and Bid Deposit to the Receiver no later than five (5) business days prior to the Auction; and Qualified Bidders shall appear at the Auction in person, or through a duly authorized representative. If there are multiple Qualified Bidders at the Auction, the Receiver shall obtain the Court's approval of the Prevailing Bidder and also the Qualified Bidder with the next highest bid at the Auction (the “**Backup Bidder**”). At the conclusion of the Auction, the Prevailing Bidder and Backup Bidder shall increase the Bid Deposit amount to ten percent (10%) of the Purchase Price after Auction. The Receiver shall retain the Backup Bidder’s Bid Deposit until (a) the closing for the Prevailing Bidder occurs, in which event the Backup Bidder’s Bid Deposit shall immediately be returned to the Backup Bidder, or (b) the closing for the Prevailing Bidder fails to occur, in which event the Backup Bidder’s Bid Deposit shall be applied to the purchase price for the Backup Bidder’s closing as set forth herein below. If the

Prevailing Bidder fails to close the purchase and sale of the Property, the Backup Bidder shall be deemed to be the Prevailing Bidder and the Receiver shall provide written notice thereof to the Backup Bidder. Within ten (10) days after the Backup Bidder's receipt of such notice from the Receiver, the closing for the Backup Bidder's purchase of the Property shall occur. Pursuant to the foregoing, if the initial Prevailing Bidder fails to close the purchase and sale of the Property and the Court has approved a Backup Bidder, the Receiver shall proceed to close with the Backup Bidder without any obligation to conduct another auction as a condition precedent to such closing. The Prevailing Bidder's Bid Deposit shall be applied to the purchase price at closing, if the sale is approved by the Court and the Prevailing Bidder closes the purchase and sale of the Property.

4.5 Overbids, Bid Increments, and Auction. The minimum initial overbid shall be One Million and No/100 Dollars (\$1,000,000.00). If any overbids are received and are Qualified Bids, the sale of the Property will be subject to the Auction. As applicable, the Receiver will provide the Auction instructions to all Qualified Bidders and only Qualified Bidders may make bids at the Auction. All bids will be subject to overbids in increments of One Hundred Thousand and No/100 Dollars (\$100,000.00).

4.6 Consent to Court Jurisdiction. All Qualified Bidders appearing at the Auction shall have deemed to have consented to the Court's jurisdiction. The Court shall be the exclusive forum for any disputes arising in connection with any agreements to purchase the Property.

4.7 Court Approval if No Qualified Bids are Received. In the event no Qualified Bids are received by the Receiver, the Receiver will notify the Court that no Auction will take place and ask the Court to approve the sale to Buyer pursuant to this Agreement.

4.8 Receiver's Right to Determine Conduct of Auction. The Receiver reserves the right to deny any person admittance to the Auction, to postpone or cancel the Auction, and to change any terms or procedures of the Auction or the particular conditions of sale, as necessary, upon notice to Buyer, and any Qualified Bidders, prior to or at the Auction, without further Court order.

4.9 No Contingencies. There is no contingency of any kind or nature that will permit the Buyer or any Qualified Bidder to withdraw its bid and receive a return of the Earnest Money other than (a) the Court's denial of the Sale Motion, (b) the Receiver's inability to deliver Insurable Title to the Real Property, or (c) the Buyer not being selected as the Prevailing Bidder after the Auction (the "**Excluded Contingencies**"). The Receiver shall have the right in his sole and absolute option to adjourn the Closing for a period not to exceed sixty (60) days in order to obtain approval of the Sale Motion and remedy any defect to title. The failure to Close for any reason whatsoever, except the Excluded Contingencies, will result in the Receiver retaining the Earnest Money and the termination of the Buyer's right to acquire the Property. The Buyer shall have no recourse to any other property or assets of the Receiver and the Receivership Estate, which shall be exempt from levy, execution or other enforcement procedure for the satisfaction of Buyer's remedies. The provisions of this section will survive the Closing.

4.10 Sale Free and Clear of Encumbrances. Except to the extent specifically provided for in this Agreement, the Sale Order shall provide that the Property shall be sold and conveyed to the Buyer at the Closing free and clear of any and all Encumbrances, except for Permitted Encumbrances.

V.
CLOSING

5.1 Time and Place of Closing. The closing of the purchase and sale of the Property (the “**Closing**”) pursuant to this Agreement shall take place within twenty (20) business days immediately following the entry of the Sale Order (the “**Closing Date**”), it being expressly understood by the Parties that time is of the essence. Failure to consummate the Closing shall not result in the termination of this Agreement or relieve Buyer of any obligation hereunder. Notwithstanding the actual time of Closing on the Closing Date, the Closing shall be deemed, for accounting and financial reporting purposes, to have occurred as of 12:00:01 a.m. on the Closing Date. The Closing shall be held by remote escrow through the office of the Title Company, or at such other location as may be acceptable to the Parties.

5.2 Seller’s Deliveries at Closing. Subject to Section 9.2.4, at the Closing, the Seller shall cause to be delivered to the Title Company (unless otherwise noted herein) the items, documents and instruments in the form specified herein, each being duly executed and acknowledged, and in recordable form, where required:

5.2.1.1. A receiver’s deed (the “**Deed**”) conveying fee simple title to the Property to Buyer, free and clear of all Encumbrances excepting only the Permitted Encumbrances, in the form of Exhibit C attached to this Agreement and made a part hereof;

5.2.1.2. An Assignment and Assumption of the Resident Agreements (the “**Resident Agreement Assignment**”), in the form of Exhibit D attached to this Agreement and made a part hereof, assigning and conveying to Buyer or its designee, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Resident Agreements;

5.2.1.3. A Bill of Sale, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning, conveying and transferring to Buyer (i) the Personal Property and (ii) all of Seller’s rights and interests in the licensed assisted living institution located on the Property (the “**Bill of Sale**”), in the form of Exhibit E attached to this Agreement and made a part hereof;

5.2.1.4. An Assignment and Assumption of Intangible Property, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning and conveying to Buyer, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Intangible Property (“**Assignment of Intangibles**”), in the form of Exhibit F attached to this Agreement and made a part hereof;

5.2.1.5. An Assignment and Assumption of Contracts, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning and conveying to Buyer or its designee, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Contracts (“**Assignment of Contracts**”), in the form of Exhibit G attached to this Agreement and made a part hereof;

5.2.1.6. The Title Company's standard form of owner's affidavit dated as of the Closing Date, provided that any representation made therein shall be to the Receiver’s actual

knowledge only (without investigation) and that such affidavit shall contain no surviving indemnity obligations (other than, if any, in connection with loss resulting from an inaccuracy in any representation in such affidavit resulting from a failure by the Receiver to disclose information of which it was actually aware);

5.2.1.7. An affidavit stating that Seller is not a “foreign person” within the meaning of Section 1445(0)(3) of the Internal Revenue Code of 1986, in the form of Exhibit H attached to this Agreement and made a part hereof;

5.2.1.8. Customary documents sufficient to cause the Title Company to issue its policy of title insurance without exception for any lien or claim for brokerage services as of the Closing Date, subject only to the Permitted Encumbrances, including customary and recordable discharges of monetary liens to be satisfied out of Closing proceeds;

5.2.1.9. Counterparts of a closing statement (the “**Closing Statement**”) summarizing all adjustments in respect of the Purchase Price made at the Closing;

5.2.1.10. Requisite notices to the resident under any Resident Agreement as may be required under such Resident Agreement, advising of the change in identity and address of the Landlord thereunder;

5.2.1.11. The Sale Order;

5.2.1.12. A rent roll dated as of the Closing Date containing the name of each resident under each Resident Agreement, the space rented, the rent and other charges payable, and any security deposit or advance payments or refundable fees;

5.2.1.13. Any and all other documents described in this Agreement, required by law, or otherwise customary, necessary or appropriate to consummate and evidence the transaction contemplated hereby; and

5.2.1.14. All keys to the Property which are in the possession or control of Seller (which will be available at the Facility).

5.3 Buyer’s Deliveries at Closing. Subject to Section 9.2.4, at the Closing, the Buyer shall cause to be delivered to Seller or the Title Company:

5.3.1.1. The Purchase Price, less the Earnest Money deposited;

5.3.1.2. Counterparts of the following documents, duly executed by Buyer or its designee: (i) Closing Statement; (ii) Resident Agreement Assignment; (iii) Assignment of Intangibles; and (iv) Assignment of Contracts;

5.3.1.3. A copy of resolutions, consents or other evidence satisfactory to Seller which authorize the transactions contemplated by this Agreement and the execution of this Agreement and the documents, instruments and agreements to be executed and delivered by Buyer pursuant hereto, together with, if necessary, proof as to the authority of the person(s) executing and delivering this Agreement and such documents, instruments and agreements on behalf of Buyer; and

5.3.1.4. Any and all other documents described in this Agreement, required by law, or otherwise necessary or appropriate to consummate and evidence the transaction contemplated hereby.

VI.

PROPERTY CONVEYED “AS-IS”

6.1 No Representations or Warranties. The Receiver, his Broker and their representatives and professionals have not made and do not make any representations or warranties as to the physical (including without limitation environmental) condition, expenses, operations, value of the Property, or any other matter or thing affecting or related to the Property or this sale, which might be pertinent to the purchase of the Property. Buyer hereby expressly agrees and acknowledges that no such representations or warranties, express or implied, have been made. The Receiver, the Broker and their representatives and professionals shall not be liable or bound in any manner by express or implied warranties, guarantees, promises, statements, representations or information pertaining to the Property, made or furnished by the Broker or the Receiver or any real estate broker, agent, employee, servant or other person or professional representing or purporting to represent the Broker or the Receiver unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing within this Agreement.

6.2 “As Is”, “Where Is”, “With All Faults”. The Real Property is being sold “**AS IS**”, “**WHERE IS**”, “**WITH ALL FAULTS**”, without any representations, covenants, guarantees or warranties of any kind or nature, and free and clear of any Encumbrances (other than Permitted Encumbrances), with such Encumbrances, if any, to attach to the proceeds of sale in such order and priority as they existed immediately prior to the Closing, and the sale of the Real Property is subject to, among other things (a) any state of facts that are shown on the survey of the Real Property dated July 26, 2018 contained in the Due Diligence Materials or any update of such survey obtained by the Buyer that is consistent therewith; (b) any covenants, restrictions and easements of record and any other matters set forth as exceptions to title in any title commitment obtained by Buyer in all material respects similar to the commitment provided as part of the Due Diligence Materials, other than monetary liens to be discharged at Closing from closing proceeds; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; (e) environmental conditions; (f) rights of parties in possession pursuant to Resident Agreements which are disclosed to Buyer; and (g) governmental laws, regulations, statutes, codes, ordinances and restrictions now or hereafter in effect to the extent affecting or applicable to the Real Property, including, without limitation, zoning ordinances (and amendments and additions relating thereto), the Americans with Disabilities Act of 1990, as amended, and any other laws or regulations applicable to the operation of the Facility; (h) liens for taxes not yet payable, and (i) any liens resulting from the actions or omissions of the Buyer (the matters in the foregoing clauses (a) through (i), each and collectively, “**Permitted Encumbrances**”).

6.3 Due Diligence. By delivering its Earnest Money, Buyer acknowledges that it had the opportunity to review and inspect the Property, the state of title thereof and laws, rules and regulations applicable thereto, and will rely solely thereon and on its own independent investigations and inspections of the Property in executing this Agreement. Neither the Broker, the Receiver nor any of their representatives or professionals makes any representations or warranties with respect to the permissible uses of the Property including, but not limited to, the zoning of the

Real Property. The Real Property will be sold subject to any and all violations or conditions requiring corrective action. The Receiver, the Receivership Estates, including the Seller, the Broker and their representatives and professionals, make no representations or warranties as to the truth, accuracy or completeness of the Due Diligence Materials (*e.g.*, that such materials are complete, accurate or the final version thereof, or that all such materials are in Seller's possession), and shall have no obligation to revise, update or augment such materials.

6.4 The Receiver shall not be obligated to deliver at closing a Certificate of Occupancy, Certificate of Completion or any equivalent local document for the Real Property and/or any and all changes or additions thereto that would require a Certificate of Occupancy or Certificate of Completion.

6.5 If the Receiver is unable to deliver the Real Property in accordance with the terms and conditions of this Agreement for any reason whatsoever, the Receiver's only obligation will be to refund the Earnest Money, without interest, to the Buyer and, if Receiver sells the Property to a Prevailing Bidder other than Buyer, to pay the Breakup Fee to Buyer, and upon such refund and payment of the Breakup Fee as applicable, the Buyer shall have no claim or recourse against the Receiver, the Receivership Estates, the Broker or their representatives and professionals and shall have no further rights under this Agreement.

6.6 Buyer agrees, except to the extent required by applicable law, not to submit any reports, studies or other documents or information to any governmental agency prior to the Closing unless first approved by Seller, such approval not to be unreasonably conditioned, withheld or delayed. Specifically, Seller may object to any disclosure of adverse information or documentation relating to the Property. To the extent Buyer claims any disclosure is required by applicable law, Buyer shall afford Seller a reasonable opportunity to evaluate such claim and make any legal objection Seller is permitted by such law to make.

6.7 From and after the Closing, Buyer shall protect, defend, indemnify and hold the Receiver, the Receivership Estates, including the Seller, its member(s), affiliates and subsidiaries, and their respective members, partners, directors, officers, participants, employees and agents, free and harmless from and against any and all claims, including, without limitation, investigatory expenses, clean-up costs and reasonable attorneys' fees and related court costs of whatever kind or nature arising from or in any way connected with the physical condition of the Property or any other aspect of the Property, which first arise or accrue after the Closing. Buyer's obligations of indemnity set forth herein shall expressly survive the Closing hereof.

VII. **CONDITION; CASUALTY**

7.1 Until the Closing, Seller or Seller's agent shall operate and maintain the Property in a businesslike manner, subject to and in accordance with the terms of the Resident Agreements. Notwithstanding the foregoing, prior to the Closing, (i) Seller shall not enter into any new lease or Resident Agreement or amend or terminate any existing lease or Resident Agreement or (ii) enter into any new service contract relating to the operation of the Property that will be binding on the Buyer or the Property after the Closing, without the prior written consent of Buyer (such consent not to be unreasonably, withheld, delayed or conditioned).

7.2 If, prior to the Closing, a material portion of the Land or Improvements is materially damaged or is destroyed, or is taken under power of eminent domain (or any entity having condemnation authority shall take any steps preliminary thereto), then Seller shall promptly deliver to Buyer written notice thereof and Buyer shall be entitled, as its sole remedy, to terminate this Agreement and receive a prompt refund of the Earnest Money upon written notice to Seller given prior to Closing. In the event that Buyer does not terminate this Agreement pursuant to the immediately preceding sentence, Buyer shall close this transaction on the date and at the Purchase Price herein agreed, and Seller will assign to Buyer Seller's right in and to any insurance proceeds payable in connection with the casualty or Seller's portion of any condemnation award, as the case may be, up to the amount of the Purchase Price. For purposes of this **section**, a "**material portion**" of the Land or Improvements shall mean that portion which, if damaged, destroyed, taken or condemned, would (i) eliminate access to any portion of the remainder to which access is available as of the date of this Agreement, (ii) cause any non-compliance with any applicable law, ordinance, rule or regulation of any federal, state or local authority or governmental agency having jurisdiction over the Land, (iii) materially breach any reciprocal easement agreement, covenant or similar agreement with or obligation to a third party, (iv) materially adversely reduce Buyer's expected economic return from its contemplated development or operation of the Land or Improvements or materially reduce the market value of the Land or Improvements as a result thereof or (v) allow any resident to terminate its Resident Agreement prior to its stated expiration.

VIII.

REPRESENTATIONS AND WARRANTIES

8.1 Buyer warrants and represents to Seller as follows:

8.1.1 Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Arizona.

8.1.2 Buyer has full power and authority to enter into this Agreement and perform its obligations hereunder in accordance with the terms hereof. The execution, delivery and performance of this Agreement by Buyer and the documents to be executed by Buyer pursuant hereto have been duly and validly authorized by all necessary action on the part of Buyer, and this Agreement and any other such documents executed by Buyer document shall constitute the valid, binding obligation and agreement of Buyer, enforceable against Buyer in accordance with their respective terms. No bankruptcy, insolvency, reorganization, arrangement or moratorium proceeding or allegation of fraudulent conveyance is now pending or threatened against Buyer

8.2 Such representations and warranties, shall survive the Closing hereof until six (6) months after the date of Closing. Any claim not asserted in writing by Seller or Buyer within such period shall lapse and be forever null and void.

IX.

CONDITIONS TO CLOSING

9.1 Seller's Obligation to Close. The obligation of Seller to close under this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Seller, at its election, may waive all or any of such conditions except the entry of the Sale Order.

9.1.1 Buyer shall have paid to Seller the Purchase Price required under this Agreement and all other amounts due to Seller hereunder.

9.1.2 All representations and warranties of Buyer set forth herein shall be true and correct in all material respects on and as of the Closing Date as if made on and as of such date.

9.1.3 Buyer shall have executed and/or delivered or caused to be delivered at Closing all documents and executed counterparts of documents and instruments required by this Agreement to be executed and/or delivered by Buyer and shall have taken all other actions and fulfilled all other covenants and conditions required of Buyer under this Agreement in all material respects.

9.1.4 Buyer shall have supplied all replacement insurance required of landlord under the Resident Agreements and shall otherwise be in a position to assume all of landlord's obligations thereunder. To the extent Seller's insurance policies are on a "claims made" (as opposed to "occurrence") basis, Seller will obtain (at Buyer's cost) "tail insurance" coverage for losses arising prior to Closing out of claims brought under Seller's insurance policies for general and professional liability, automobile liability, and worker's compensation and employment practices liability. To the extent commercially available, such tail coverage will name Buyer and its management company, Buyer's licensee and its property manager additional insureds. Seller will provide evidence of such tail coverage to Buyer prior to the Closing Date. Buyer shall pay at Closing, and the Closing Statement shall reflect the payment by Buyer of, any necessary "tail insurance" required in the event that Buyer does not elect to retain the existing operator of the Facility. Buyer shall provide at Closing customary Certificates of Insurance evidencing all required coverage.

9.1.5 The transaction contemplated by this Agreement shall be approved by the Court and the Sale Order shall have been entered.

9.2 Buyer's Obligation to Close. The obligation of Buyer to close under this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Buyer, at its election, may either (i) terminate this Agreement and receive a refund of its Earnest Money if any such condition is not satisfied as of the Closing Date or (ii) waive all or any of such conditions, which election shall be conclusively evidenced by Buyer's proceeding with and completing the Closing of the transaction provided for herein:

9.2.1 The transaction contemplated by this Agreement shall be approved by the Court as evidenced by entry of the Sale Order and Buyer is the Prevailing Bidder after the Auction.

9.2.2 Seller shall have executed and/or delivered or caused to be delivered at Closing all of the documents and executed counterparts of documents and instruments required by this Agreement to be executed and/or delivered by Seller.

9.2.3 Title Company shall be prepared to issue to Buyer an owner's policy of title insurance for the Property in an amount equal to the Purchase Price and evidencing Insurable Title.

9.2.4 Buyer shall have received a License to operate the Facility as an assisted living facility, or assurances that such license will be issued in due course following Closing;

provided, however, that in the event Buyer has not secured such a License as of the Closing Date, Seller and Buyer shall:

9.2.4.1 Delay the execution and delivery of the Resident Agreement Assignment until such date as the Buyer or its designee has secured such License;

9.2.4.2 Not terminate the Existing Management Agreement as contemplated by Section 12.1, and maintain such agreement in full force and effect subject to the Amendment to Existing Management Agreement (described in clause 9.2.4.3) until the date the License is secured, at which time such agreement shall be terminated;

9.2.4.3 Enter into and cause the Property Manager to enter into that certain Amendment to Property Management Agreement substantially in the form attached hereto as Exhibit K;

9.2.4.4 Enter into the Interim Period Sublease substantially in the form attached hereto as Exhibit L.

X. **COSTS**

10.1 Buyer will pay the following costs of Closing this transaction:

10.1.1 the fees and disbursements of its counsel, inspecting architect and engineer, surveyor, environmental consultants and other consultants and agents, if any;

10.1.2 any fees incurred in connection with any Survey;

10.1.3 all expenses pertaining to any financing obtained by Buyer;

10.1.4 all recording fees, transfer taxes and intangible taxes;

10.1.5 one half (1/2) of any escrow or Closing fees; and

10.1.6 the cost of any owner's and lender's title insurance policy(ies), including any extended coverage title insurance policy or endorsements issued in connection with this Agreement or the transaction contemplated hereby.

10.2 Seller will pay the following costs of Closing this transaction:

10.2.1 one half (1/2) of any escrow or Closing fees; and

10.2.2 fees and disbursements of Seller's counsel.

XI. **PRORATIONS**

11.1 The following provisions shall govern the apportionment of income and expenses with respect to the Property between Seller and Buyer:

11.1.1 Seller shall arrange for final meter readings on all utilities at the Property to be taken prior to the Closing Date. Seller shall be responsible for the payment of utilities used through the day preceding the Closing Date and Buyer shall be responsible for the payment of utilities used on or after the Closing Date. With respect to any utility for which there is no meter, the expenses for such utility shall be prorated between Seller and Buyer at Closing based upon the most current bill for such utility. Buyer shall use reasonable efforts to cause the transfer of utility company accounts from Seller to Buyer on the Closing Date, provided that the same shall be transferred within not later than thirty (30) days thereafter in any event. All deposits with utility companies will be returned to Seller upon Buyer's receipt of the same.

11.1.2 Real estate taxes (including ad valorem and equivalent taxes) and assessments assessed prior to the Closing Date shall be prorated between the Buyer and the Seller as of the Closing Date. Seller shall pay, or Buyer shall receive a credit against the Purchase Price for, all taxes and assessments assessed in and for 2023, regardless of the date of assessment, and payable in 2024, and its proportionate share of the taxes and assessments assessed in 2024, and payable in 2025, based on the number of days in 2024 that Seller owned the Property. Thereafter, Seller shall have no further liability to pay taxes or assessments due after the Closing Date. If at the time of Closing the tax assessment for the Property for the succeeding year has been completed, taxes payable shall be computed based on the current tax assessment. If at the time of Closing the tax assessment for the Property for the succeeding year has not been completed, the taxes payable shall be assumed to be the same as the prior year for the purpose of such proration and credit for due but unpaid taxes, and this shall be a final settlement.

11.1.3 Resident rents (including, without limitation, all resident reimbursement obligations related to taxes, common area expenses, operating expenses and/or additional charges of any nature to the extent applicable under any Resident Agreement) shall be pro-rated between Seller and Buyer as of the Closing Date. Resident rents that Buyer (and/or its property manager) receives after the Closing Date shall be promptly remitted if any, to Seller to the extent any pre-Closing Date Resident rents under such resident's Resident Agreement remains unpaid. All prepaid rents and other income from the Property shall be credited to Buyer at Closing to the extent same is attributable to a period of time after Closing.

11.1.4 To the extent not specifically addressed above, all obligations for taxes, common area expenses, operating expenses or additional charges of any nature related to the Property will be pro-rated between Seller and the Buyer as of the Closing Date. If the actual amount of such amounts is not known as of such date, the proration at the Closing will be on an equitable basis and will be based on the most current and accurate billing information available. If, upon receipt of the actual bills, such proration proves to be inaccurate, then Seller and Buyer (and/or its property manager) shall correct the proration as soon as possible and make the appropriate payments to reflect same, provided that no payments shall be made to the extent the amount thereof is less than \$2,000.00 in the aggregate for all items covered by this clause. For the avoidance of doubt, the foregoing shall include all obligations and liabilities (for services and materials ordered, or otherwise in the ordinary course of business) and accounts payable for the Facility and the Real Property owing as of the Closing Date for merchandise, equipment, supplies and other materials and services paid, incurred or ordered shall be paid by Seller (the Purchase Price being inclusive of all Consumable Inventories, Personal Property and Supply Inventories at the Property).

11.1.5 The pro-rations described in this Section shall be made as of 12:00 a.m. EST on the Closing Date, as if Buyer were vested with title to the Property during the entire day upon which Closing occurs. All pro-rations described in this Section shall be effectuated by increasing or decreasing, as the case may be, the amount of cash to be paid by Buyer to Seller at Closing. Seller and Buyer (and/or its property manager) agree to adjust between themselves after Closing, as promptly as practicable, any errors or omissions in the pro-rations made at Closing.

11.1.6 All of Seller's Accounts Receivable shall be and remain the property of Seller subsequent to the Closing of the transaction contemplated hereby. At the Closing, Seller shall prepare a list of its outstanding Seller's Accounts Receivable as of the Closing Date, specifying the name of each account and the amount due to Seller. Buyer (and/or its property manager) shall hold in trust for Seller any funds which are received by Buyer (and/or its property manager) as payment of such accounts receivable, i.e., if Buyer (and/or its property manager) actually collects any such amounts; and Buyer (and/or its property manager) shall pay the monies collected in respect thereof (net of actual collection costs and costs owed to Buyer) to Seller at the end of each calendar month, accompanied by a statement showing the amount collected on each such account. Other than the foregoing, Buyer shall have no obligation with respect to any such account, and Buyer shall not be required to take any legal proceeding or action to effect collection on behalf of Seller. It is the intention of Buyer and Seller that although all Seller's Accounts Receivable shall be and remain the property of Seller, nevertheless, if any such accounts are paid to Buyer (and/or its property manager), then it/they shall collect same, deduct any costs owed to Buyer (and/or its property manager) and remit to Seller in the manner above provided. Notwithstanding anything to the contrary herein, all sums collected by Buyer (and/or its property manager) will be credited first to current amounts due to Buyer, and thereafter to amounts due Seller. Seller will not be entitled to enforce collection of the accounts receivable which are owed to Seller, except with respect to residents who no longer reside at the Property.

11.1.7 The provisions of this Section shall survive Closing.

XII. **PROPERTY MANAGEMENT**

12.1 Management Agreement. On the Closing Date, Seller shall terminate the Existing Management Agreement and Buyer shall enter into a new management agreement with the Property Manager.

XIII. **DEFAULT AND REMEDIES**

13.1 If Buyer is not then in default hereunder, and Seller fails to close the transaction contemplated hereby, Buyer shall be entitled, as its sole and exclusive remedy, to terminate this Agreement by giving written notice of termination and receive a full and immediate refund of any and all Earnest Money previously deposited and, if applicable, an amount equal to the Breakup Fee if Seller sells the Property pursuant to the Bidding Procedures Order.

13.2 If Buyer fails to close the transaction contemplated hereby, Seller shall be entitled to receive the Earnest Money as liquidated damages; provided Seller does not waive and, in particular, reserves any rights against and indemnities from Buyer which are herein intended to survive the

termination of this Agreement pursuant to the express provisions hereof. Seller and Buyer recognize and agree that, under the circumstances existing as of the date of execution of this Agreement, the liquidated damages set forth above are a reasonable estimate of the damages which Seller would incur as a result of such a failure and are reasonable in the context of the transaction in which a complete measure of damages is not feasible.

13.3 The provisions of this Article XII shall survive the termination of this Agreement.

XIV.
NOTICES

14.1 Any notice, request, demand, instruction or other communication to be given to either party hereunder, except those required to be delivered at Closing, shall be in writing, and shall be given and received (a) upon receipt if hand delivered, (b) the following business day after being sent by recognized overnight courier service, or (c) the date sent by electronic mail (including, without limitation, by PDF) shall be deemed given when sent, provided any such notice by electronic mail is sent on a business day during regular business hours (otherwise it shall be deemed received on the following business day). All notices shall be addressed as follows:

IF TO SELLER: GLENROSA 32, LLC
 c/o Allen D. Applbaum, Receiver
 StoneTurn
 17 State Street, 2nd Floor
 New York, New York 1004
 Tel. (212) 430-3449
 Email: aapplbaum@stoneturn.com

And

 StoneTurn
 6429 Wilshire Blvd, Suite 880
 Los Angeles, California 90048
 Attn: Randall Coxworth
 Tel. (213) 459-1859
 Email: rcoxworth@stoneturn.com

WITH A COPY TO: Archer & Greiner, P.C.
 1025 Laurel Oak Road
 Voorhees, New Jersey 08043
 Attn: Jawad H. Salah
 Tel. (856) 673-7143
 Email: jsalah@archerlaw.com

And

 Archer & Greiner, P.C.
 1211 Avenue of the Americas
 New York, New York 10036

Attn: Gerard DiConza
Tel. (212) 682-4940
Email: gdiconza@archerlaw.com

IF TO BUYER: SSOF II Arcadia Propco, LLC
2211 Michelson Drive
Suite 620
Irvine CA 92612
Attn: Frank J. Small
Email: fsmall@12-north.com

And

Attn: Tal Seder
Email: tal.seder@sabal.com

WITH A COPY TO: Williams Mullen
200 South 10th Street
Richmond VA 23219
Attn: Robert C Dewar, Esq.
Email: rdewar@williamsmullen.com

14.2 The addresses and addressees for the purpose of this article may be changed by either party by giving notice of such change to the other party in the manner provided herein for giving notice. For the purpose of changing such addresses or addressees only, unless and until such written notice is received, the last address and addressee stated herein shall be deemed to continue in effect for all purposes.

XV.
ESCROW INSTRUCTIONS

15.1 Upon execution of this Agreement, the Parties shall deliver an executed counterpart of this Agreement to the Title Company to serve as the instructions to the Title Company as the escrow holder for consummation of the transaction contemplated herein. Seller and Buyer agree to execute such additional and supplementary escrow instructions as may be required by the Title Company to comply with the terms of this Agreement, provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall prevail as between Buyer and Seller.

XVI.
MISCELLANEOUS

16.1 This Agreement, together with the exhibits attached hereto, all of which are incorporated by reference, is the entire agreement between the Parties with respect to the subject

matter hereof, and no alteration or modification hereof shall be binding unless in writing and signed by both Parties.

16.2 If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

16.3 This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

16.4 Buyer may not assign this Agreement without first obtaining Seller's written consent, except that, to the extent permissible under (or not prohibited by) the Sale Order, Buyer may assign this Agreement to an entity controlled by, controlling or under common control with Buyer. Any assignment in contravention of this provision shall be void. No assignment shall release the Buyer herein named from any obligation or liability under this Agreement. Any permitted assignee shall be deemed to have made any and all representations and warranties made by Buyer hereunder, as if the assignee were the original signatory hereto.

16.5 Subject to the limitations of **Section 16.4**, this Agreement shall be binding upon and inure to the benefit of Buyer and Seller and their successors and permitted assigns.

16.6 Buyer shall make no public disclosure of the terms of this transaction without the prior written consent of Seller unless legally compelled to do so (by deposition, interrogatory, request for documents, subpoena, civil investigation, court order or demand or similar process or by law), except that Buyer may discuss the transaction in confidence with its members, attorneys, lenders, representatives, agents, contractors, proposed joint ventures or prospective mortgagees.

16.7 The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its provisions.

16.8 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs. The term "prevailing party" as used in this Agreement shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise (and regardless of whether formal litigation is commenced).

16.9 Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the Parties or their successors in interest.

16.10 Time is of the essence in this Agreement.

16.11 This Agreement may be executed and delivered in any number of counterparts, and/or by email (.pdf format) or by facsimile each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

16.12 Buyer and Seller agree not to record this Agreement or any memorandum hereof.

16.13 If as a result of any tax protest or otherwise any refund or reduction of any real property or other tax or assessment relating to the Property during the period for which, under the terms of this Agreement, Seller is responsible, Seller shall be entitled to receive or retain such refund or the benefit of such reduction, less equitable prorated costs of collection.

16.14 Buyer agrees that it does not have and will not have any claims or causes of action against any disclosed or undisclosed officer, director, employee, trustee, member, shareholder, partner, principal, parent, subsidiary or other affiliate of the Receiver, the Receivership Estates, and Seller (collectively, the “**Seller’s Affiliates**”), arising out of or in connection with this Agreement or the transactions contemplated hereby. Buyer agrees to look solely to Seller’s assets directly attributable to the Property (including any consideration received by Seller from the sale of all or any part thereof) for the satisfaction of Seller’s liability or obligation arising under this Agreement or the transaction contemplated hereby, or for the performance of any of the covenants, warranties or other agreements of Seller contained herein, and further agrees not to sue or otherwise seek to enforce any personal obligation against any of the Seller's Affiliates with respect to any matters arising out of or in connection with this Agreement or the transactions contemplated hereby.

16.15 The formal tender of an executed Deed by Seller is hereby waived, but nothing herein contained shall be construed as a waiver of Seller’s obligation to deliver the Deed and/or of the concurrent obligation of Buyer to pay the portion of the Purchase Price payable at Closing, if any.

16.16 The parties each agree to do such other and further acts and things, and to execute and deliver such instruments and documents (not creating any obligations additional to those otherwise imposed by this Agreement) as either may reasonably request from time to time, whether at or after the Closing, in furtherance of the purposes of this Agreement. The provisions of this Section 16.16 shall survive the Closing.


16.17 THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THAT EITHER PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE PROPERTY, THE CONVEYANCE INSTRUMENT OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HERewith, OR IN RESPECT OF ANY COURSE OF CONDUCT, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF THE PARTIES TO ENTER INTO THIS TRANSACTION AND SHALL SURVIVE THE CLOSING OR THE TERMINATION OF THIS AGREEMENT.

[Signatures on following pages]

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed as of the date first above written.


“SELLER”

**ALLEN D. APPLBAUM, SOLELY IN HIS
CAPACITY AS RECEIVER FOR
GLENROSA 32, LLC, an Arizona limited
liability company**

By:  _____
Allen D. Applbaum, Receiver

“BUYER”

**SSOF II ARCADIA PROPCO, LLC, an
Arizona limited liability company**

By:  _____
Name: Drake Ayres _____
Title: Authorized Signer _____

Execution Draft

EXECUTED by the Title Company the day of April, 2024, for the purposes of acknowledging receipt of the Earnest Money and agreeing to the provisions relating to the rights and obligations of the Title Company, as set forth herein.

“First American Title Company”

By: Latasha Biddle

Name: Latasha Biddle

Title: Commercial Escrow Officer

SCHEDULE A-1

Legal Description of Real Property

Lot 1, 32nd Street Condos, according to Book 944 of Maps, Page 48, records of Maricopa County, Arizona.

SCHEDULE A-2

Personal Property

EXHIBIT A

Excluded Contracts

[TO BE PROVIDED]

EXHIBIT B

Allocation of Purchase Price

[TO BE PROVIDED]

EXHIBIT C

FORM of Deed

RECEIVER'S DEED

WHEREAS, the United States District Court for the _____ District of _____, in a civil action titled Securities and Exchange Commission v. _____ et al., Case No. _____, having on _____ ordered the appointment of _____ as Receiver to, *inter alia*, take possession, and arrange for the sale, of that certain property located at _____; and

WHEREAS, the Court having entered an order confirming the sale of the real property to _____ of _____, and approving this form of deed; and

WHEREAS, _____ whose address is _____ was duly authorized and directed to convey the real property to the purchaser; and

WHEREAS, the real property has been sold pursuant to the Court's order, for the sum of \$ _____, and

WHEREAS, the real property is more particularly described as follows:

NOW KNOW YE, THAT _____, pursuant to the authority and direction given to it, does hereby bargain, sell, transfer and convey to _____ all the right, title, claims, and interest in the above-described real property, to have and to hold, with appurtenances thereto, by _____ and her heirs and assigns, forever, for their own use and disposition.

AND ALSO, _____ does hereby covenant with _____, and its assigns, that it has full power and authority to grant and convey the aforesaid premises in the manner and form aforesaid.

Said premises are conveyed to _____ free and clear of any of the rights, titles, claims or interests, subject to any sums which may be due for municipal property, water or sewer taxes, or any special use charges or assessments, and subject to all laws, ordinances and governmental regulations affecting said premises, and any easements and restrictions appearing of record, if any.

I have hereunto set my hand and seal, this _____ day of _____, 2024.

Receiver

STATE OF _____
COUNTY OF _____

On this date _____, the signer and sealer of the foregoing instrument, personally appeared before me and acknowledged the same to be his free act and deed.

_____ day of _____, 2024.

(Name)
Notary Public

Return to: _____

EXHIBIT D

FORM of Resident Agreement Assignment

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Resident Agreements)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Resident Agreements**”) is dated this ___ day of _____, 2024, (the “**Effective Date**”) by and between [_____] a [_____] (“**Assignor**”), and [_____] a [_____] (“**Assignee**”).

1. Concurrently with the execution and delivery of this Assignment and Assumption of Resident Agreements, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain real property located in _____, together with the buildings and improvements thereon, and related personal property contained therein and certain rights appurtenant thereto, collectively currently operated as [an assisted living facility] under the name [“Morningstar at Arcadia”] (the “**Facility**”); pursuant to that certain Asset Purchase Agreement dated as of [_____] between Assignor and Assignee (the “**APA**”)

2. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Resident Agreements applicable to the Facility as of the date hereof.

3. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Resident Agreements.

4. All capitalized terms used by not defined in this Assignment and Assumption of Resident Agreements shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(a) **Assignment of Resident Agreements.** As of the Effective Date, Assignor hereby transfers, assigns, conveys and sets over to Assignee, its successors and assigns (i) all of Assignor’s obligations, covenants, rights, title and interest in, to and under the Resident Agreements, together with all amendments, extensions, renewals and other modifications thereto, and (ii) any and all rights of Assignor under the Resident Agreements to collect (or to cause its property manager to collect) rents, additional rents, escrow or security deposits, fees, income, charges, and profits arising and having arisen thereunder.

(b) **Assumption of Resident Agreements.** As of the Effective Date, Assignee hereby accepts the assignment of Assignor’s rights, title and interest in, to and under the Resident Agreements.

(c) **No Warranty; Release.** Assignor makes no representation or warranty regarding the Resident Agreements, and Assignee releases and shall have no recourse to Assignor in

connection with any claims, liabilities or costs arising under the Resident Agreements, including without limitation for the collection of rents or other charges thereunder.

(d) Successors and Assigns. This Assignment and Assumption of Resident Agreements shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Resident Agreements shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(e) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Resident Agreements as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT “A” TO ASSIGNMENT AND ASSUMPTION AGREEMENT

RESIDENT AGREEMENTS

[LIST RESIDENT AGREEMENT / RENT ROLL]

EXHIBIT E

FORM of Bill of Sale

BILL OF SALE

THIS BILL OF SALE (the “**Bill of Sale**”) is dated this ___ day of _____, 2024, by and between [_____] a [_____] (“**Seller**”), and [_____] a [_____] (“**Buyer**”).

RECITALS

5. Concurrently with the execution and delivery of this Bill of Sale, Seller is conveying to Buyer, by Receiver’s Deed (the “**Deed**”) those certain tracts of land (the “**Land**”) more particularly described on Exhibit “A” attached hereto and made a part hereof for all purposes, together with the improvements located thereon (the “**Improvements**”, and together with the Land, the “**Property**”), pursuant to that certain Asset Purchase Agreement dated as of [_____] , between Seller and Buyer (the “**APA**”).

6. Seller desires to sell, transfer and convey to Buyer, and Buyer desires to purchase from Seller the Improvements and Personal Property owned by Seller comprising and used in the operation of the Facility (as hereafter defined), subject to the terms and conditions set forth herein.

7. All capitalized terms used by not defined in this Bill of Sale shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the receipt of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by Buyer to Seller, the receipt and sufficiency of which are hereby acknowledged by Seller:

- (a) Sale and Assignment. Seller does hereby SELL, TRANSFER, CONVEY, and DELIVER to Buyer, and Buyer hereby accepts, the personal property, if any, owned by Seller upon the Land or within the Improvements, including heating, ventilation and air conditioning systems, other existing Building systems, and all other components and equipment pertinent to any of the foregoing, maintenance supplies and tools, if any, located in or on the Improvements or Land (collectively, and as may be further defined in the APA, the “**Personal Property**”).
- (b) No Warranty; Release. Seller makes no representation or warranty regarding the Personal Property, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising from or relating to the Personal Property.
- (c) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first set forth above.

SELLER:

[_____]

By: _____

Name: _____

Title: _____

BUYER:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT "A" TO BILL OF SALE

Legal Description

EXHIBIT F

FORM of Assignment of Intangibles

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Intangibles)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Intangibles**”) is dated this __ day of _____, 202_, (the “**Effective Date**”) by and between [_____] a [_____] (“**Assignor**”), and [_____] a [_____] (“**Assignee**”).

8. Concurrently with the execution and delivery of this Assignment and Assumption of Intangibles, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain real property located in _____, together with the buildings and improvements thereon, and related personal property contained therein and certain rights appurtenant thereto, collectively currently operated as [an assisted living facility] under the name [“Morningstar at Arcadia”] (the “**Facility**”); pursuant to that certain Asset Purchase Agreement dated as of [_____], between Assignor and Assignee (the “**APA**”)

9. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Intangibles applicable to the Facility as of the date hereof (the “**Intangibles**”).

10. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Intangibles.

11. All capitalized terms used by not defined in this Assignment and Assumption of Intangibles shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(d) Assignment of Intangibles. As of the Effective Date, Assignor hereby sells, transfers, assigns, conveys and sets over to Buyer, its successors and assigns any/all (i) local telephone and facsimile exchange numbers identified exclusively with the Facility, (ii) transferable certificates (including the certificate of occupancy for the Real Property), licenses, permits and warranties (specifically including all construction and equipment warranties and guarantees) now in effect with respect to the Property, at no cost to Seller (and provided, however, that Seller makes no representation or warranty with respect to the existence, availability or assignability of any of the foregoing), (iii) all general intangibles relating to design, development, operation and use of the Facility, all rights and work product under construction, service, consulting, engineering, architectural, design and construction agreements (including any warranties contained therein) and other Contracts, and plans and specifications of any portion of the Facility, and all development rights and goodwill related to any portion of the Property, (iv) the Intellectual Property Rights, and (v) all other intangible property used by Seller exclusively in connection with the ownership and operation of the Facility, but excluding the Excluded Assets, if any, owned by Seller and relating solely to the Land, the Improvements or the Personal Property.

Execution Draft

(e) Assumption of Intangibles. As of the Effective Date, Assignee hereby accepts the assignment of Assignor's obligations, rights, title and interest in, to and under the Intangibles.

(f) No Warranty; Release. Assignor makes no representation or warranty regarding the Intangibles, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising under the Intangibles.

(g) Successors and Assigns. This Assignment and Assumption of Intangibles shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Intangibles shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(h) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Intangibles as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT G

FORM of Assignment of Contracts

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Contracts)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Contracts**”) is dated this ___ day of _____, 202_, (the “**Effective Date**”) by and between [_____] a [_____] (“**Assignor**”), and [_____] a [_____] (“**Assignee**”).

12. Concurrently with the execution and delivery of this Assignment and Assumption of Contracts, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain real property located in _____, together with the buildings and improvements thereon, and related personal property contained therein and certain rights appurtenant thereto, collectively currently operated as [an assisted living facility] under the name [“Morningstar at Arcadia”] (the “**Facility**”); pursuant to that certain Asset Purchase Agreement dated as of [_____], between Assignor and Assignee (the “**APA**”)

13. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Contracts (other than Excluded Contracts) applicable to the Facility as of the date hereof (the “**Contracts**”).

14. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Contracts.

15. All capitalized terms used by not defined in this Assignment and Assumption of Contracts shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(i) **Assignment of Contracts.** As of the Effective Date, Assignor hereby transfers, assigns, conveys and sets over to Assignee, its successors and assigns (i) all of Assignor’s obligations, covenants, rights, title and interest in, to and under the Contracts, together with all amendments, extensions, renewals and other modifications thereto, and (ii) any and all rights of Assignor under the Contracts (other other than any indemnification obligations, awards or payments in favor of or belonging to Assignor, if any, relating to periods or events prior to the Effective Date, which shall expressly be retained by Assignor).

(j) **Assumption of Contracts.** As of the Effective Date, Assignee hereby accepts the assignment of Assignor’s obligations, rights, title and interest in, to and under the Contracts.

(k) **No Warranty; Release.** Assignor makes no representation or warranty regarding the Contracts, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising under the Contracts.

Execution Draft

(l) Successors and Assigns. This Assignment and Assumption of Contracts shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Contracts shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(m) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Contracts as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT "A" TO ASSIGNMENT AND ASSUMPTION AGREEMENT

CONTRACTS

[LIST CONTRACTS]

EXHIBIT H

FORM of FIRPTA

FIRPTA AFFIDAVIT

Section 1445 of the Internal Revenue Code provides that a transferee (Buyer) of a U.S. real property interest must withhold tax if the transferor (Seller) is a foreign person. To inform the transferee [____], a [____] ("**Buyer**"), that withholding of tax is not required upon the disposition of a U.S. real property interest [____], a [____] ("**Seller**"), hereby certifies to Purchaser the following:

1. Seller is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations) for purposes of U.S. income taxation;
2. Seller's U.S. taxpayer identifying number (EIN number) is []; and
3. Seller's address is [].

Seller understands that this certification may be disclosed to the Internal Revenue Service by Purchaser and that any false statement Seller has made here could be punished by fine, imprisonment or both.

Under penalties of perjury, Seller declares that it has examined this certification and to the best of Seller's knowledge and belief, it is true, correct, and complete.

SELLER:

[____],
a [_____]

By: _____
Name: _____
Title: _____

Date: _____

Exhibit E

12 North Capital LLC and Sabal Investment Holdings Background

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12 North Capital LLC

Frank Small

Frank Small is the founder and Managing Principal of 12 North Capital LLC. 12 North specializes in complex capital structures and operationally heavy real estate sectors. Frank has 20 years of experience acquiring and asset managing senior housing communities with focus on assisted living communities. His investment expertise is full deal lifecycle institutional investment management honed over nearly 30 years as a principal. In addition to senior housing, Frank has experience with build-to-rent, conventional multifamily, office, industrial sectors as well as experience investing in sound stages. Frank has overseen loan restructurings, lease restructurings, equity recapitalizations, portfolio-wide capex plans, unit mix shifts and management company/operator transitions. His experience ranges across the capital stack from stretch senior loans through mezzanine debt and preferred equity to joint venture equity

Frank has led over \$10 billion of investment activity overall and \$5 billion in senior housing, including single assets, portfolios, public and private operating companies. He has participated in multiple portfolio roll-ups with both private and public IPO exits as well as public company take privates.

Frank is an advisor to Jaguar Real Estate Partners, Sabal Investment Holdings, as well as other institutional owners and previously launched Greystone Healthcare Investments, was Managing Director at Fortress Investment Group and was global head of healthcare real estate at JER Partners. Frank started his career at LaSalle Partners before moving to Cerberus Partners.

Frank is a Co-Founder and Trustee of Brighter Night, Inc., a non-profit dedicated to advocating for youth, young adults and their families facing the challenges of mental health illness.

Frank holds a Bachelor of Arts degree from Princeton University and an MBA from NYU Stern School of Business.



Track Record – Selected Transactions



Benchmark Senior Living; New England

JV investment and asset management of 4,500-unit portfolio of Class A senior housing communities



Cascade Living Group; Pacific NW

JV investment and asset management of 2,500-unit portfolio of Class A senior housing communities



Cedars of Chapel Hill; Chapel Hill, NC

Development of 300-unit Continuing Care Retirement Community

Track Record – Selected Transactions



Genesis Healthcare

\$2 Billion take-private of a publicly traded SNF owner-operator with over 22,000 beds



Tandem Healthcare

\$620 million acquisition of a private SNF owner-operator with over 7,000 beds along with rehab, pharmacy, hospice and mobile diagnostic companies



Aviv Healthcare Properties

\$75 million convertible preferred equity investment into a private SNF REIT with over 11,000 beds

Track Record – Selected Transactions



Diamond Oaks Village; Bonita Springs, FL

Acquisition of 160-unit Active Adult community



Laurel at Vintage Park; Tomball, TX

Acquisition of 120-unit Active Adult community



Reserve at Lakeside; Newburgh, NY

Acquisition of 102-unit Active Adult community



Sabal Investment Holdings

Keeping investors ahead of the curve

**Sabal Investment Holdings LLC
("SIH")**

November 2023

Important Disclosure

General

This document ("Materials") contains information about SIA Debt Opportunities Fund, L.P. ("SDOF I") managed by Sabal Investment Advisors, LLC ("SIA"), SIH Debt Opportunities Fund II, L.P. ("SDOF II"), Sabal Strategic Opportunities Fund, L.P. ("SSO I" or "SSO I Fund"), SIH Debt Opportunities Fund III, L.P. and Sabal Strategic Opportunities Fund II, L.P. and its related vehicles ("SSO II") each managed by Sabal Investment Holdings, LLC, ("SIH" and together with SIA, the "Managers" or "Sabal"). SDOF I, SDOF II, SSO I, SDOF III, and SSO II (collectively, the "Funds") predominantly invest in commercial real estate ("CRE") based assets including: (i) structured credit investments; (ii) lending solutions; and (iii) opportunistic investments. The information contained herein does not constitute an offer to sell or a solicitation of an offer to purchase interests in the Fund or any other product or securities, or an offer to enter into an investment advisory relationship.

The Managers are registered with the Securities and Exchange Commission ("SEC") as investment advisers under the Investment Advisers Act of 1940, as amended (the "Advisers Act"). Registration with the SEC does not imply any level of skill or training. The Managers provide investment advisory services to privately-held pooled investment vehicles primarily invested in the CRE lending and investing sector across a broad range of product types.

The Managers are not under any obligation to update or keep current the information contained herein. Certain information contained in these Materials constitutes "forward-looking statements," or statements of opinion or intention which can often be identified by the use of forward-looking terminology such as "may," "can," "will," "would," "seek," "should," "plans," "could," "expect," "anticipate," "project," "estimate," "potential," "intend," "continue," "target," "goal," "plan" or "believe" or the negatives thereof or other variations thereon or comparable terminology or the context in which such statements appear. Trends and forward-looking statements with respect to economic and market conditions and outlook described herein are based on the Managers' opinion and belief. Statements regarding current conditions and analysis of historical trends and events are also based on opinion and belief. No assurance can be given that the views, conditions or trends described herein will occur or continue, since this will depend upon future events and factors outside the Managers' control. These trends may not be indicative of future results. Due to various risks and uncertainties, actual events, or results or the actual returns or performance of Funds or unrealized investments described herein by the Managers' or their investment funds and products may differ materially from those reflected or contemplated in the facts, opinions or other such targets or forward-looking statements contained herein. Opinions expressed herein are subject to change without notice. Various risks, uncertainties and other factors that may cause such differences in actual events.

Important Disclosure

Third Party Information

Certain information contained herein, including forward-looking statements and information regarding economic and market conditions and each Fund's investments, has been obtained from and/or prepared by third parties (including published and non-published sources and portfolio companies in which such Fund has made investments). Certain information provided by Freddie Mac or other third parties is based on current expectations, estimates, budgets, projections, forecasts, opinions and beliefs of such party. Such statements represent the other party's own assessment and interpretation of information available to it as of the date provided or prepared by other parties and in certain cases has not been updated through the date hereof. Such statements involve known and unknown risks, uncertainties and other factors and undue reliance should not be placed thereon. Such statements represent solely the opinion or belief of such party and are not expressed herein as the opinion, judgment or belief of any director, officer, employee, partner, member, shareholder of members of the Managers or their respective affiliates or other persons. While such sources are believed to be reliable, none of the Managers, each Fund, the General Partner, any placement agent, or any of their respective directors, officers, employees, partners, members, shareholders, or their affiliates, or any other person assumes any responsibility for the accuracy or completeness of such information.

Neither the Managers, each Fund nor any of their respective directors, officers, employees, partners, members, shareholders or their affiliates or any placement agent or any other person make any representation or warranty, express or implied, with respect to the fairness, correctness, accuracy, reasonableness or completeness of such information provided by or derived from third-party sources, and they expressly disclaim any responsibility or liability therefor. Opinions expressed and other information, projections, forecasts or statements herein are subject to change without notice. Statements contained herein are based on current expectations, estimates, projections, forecasts, opinions and/or beliefs of each Fund's General Partner and/or the Managers. Such statements involve known and unknown risks, uncertainties and other factors, and undue reliance should not be placed thereon. No representation is made or assurance given that such statements or views are correct. Any discussion of general market activity, industry or sector trends, or other broad-based economic, market, political or regulatory conditions should not be construed as research or investment advice. Numerical data, charts, maps and graphs presented in this presentation are approximate and are included for information and discussion purposes only. Financial estimates are inherently subjective and based on assumptions about the future that may prove incorrect.

Opinion and Belief; Forward-Looking and Other Statements.

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Sabal Platform

SIH Overview/Highlights

Established CRE platform with institutional support

\$1 Billion+

AUM across 4 Sabal sponsored funds and SMAs

Institutional Capital Base

93% - Pension, Insurance, Hospital Plans, E&F

100 Years+

Combined experience

\$5.5 Billion+ and 5,000 Loans & Assets¹

Purchased during the Global Financial Crisis, including five FDIC transactions

Diversified Sourcing Channels

Distressed experts / proven counterparty for servicers, banks, mortgage REITs, receivers, agencies, nonbank lenders, etc.

\$14 Billion+

Notional purchased across three Freddie Mac shelves (SBL, K, Q) and 2nd largest buyer in SBL Program

Government Agency Relationships:

- Partnered with FDIC five structured joint investment vehicles totaling \$2.6B in UPB and 1,100 assets.¹
- Partnered with FDIC on the bank capital advisory side and analyzed over 80 bank balance sheets.¹
- Ties to a number of US agency related entities including Freddie Mac, FDIC, Fannie Mae, HUD, Ginnie Mae.
- Participant in the Freddie Mac SBL program since 2016 and is the second largest buyer of SBL B-Pieces.

Proven Track Record Investing Across Markets and Throughout the Capital Stack:

- Managed external capital since 2016 and currently oversee over \$1B AUM, about half of which is dedicated to opportunistic investments.
- Sabal's senior management teams demonstrated ability to identify and analyze deals and structures throughout the cycle creates an opportunity to capitalize on complex and varied investment opportunities throughout the capital stack.
- Over their careers, the executive team, on behalf of its clients and investors including the FDIC, has led the acquisitions of over \$30B of real estate assets, loans, securities and companies and managed an ~\$7B portfolio focused on CRE whole loan credit investments.¹

National, Diversified and Proprietary Pipeline of Opportunities:

- Established network of sponsors allows Sabal to capitalize on a consistent pipeline of deal flow comprised of a broad range of opportunities in primary and secondary markets.
- Relationships with regional banks (Raymond James, Regions Bank), loan originators and servicers (Keybank, CWCcapital, Newmark).
- Nationwide network of proven partners, including Tishman, Rialto and CBRE, among others.

¹Occurred through formerly affiliated business(es). Past performance is not indicative of future returns.

Sabal Funds¹

Established track record of CRE debt and opportunistic investments across market cycles

SSO Fund

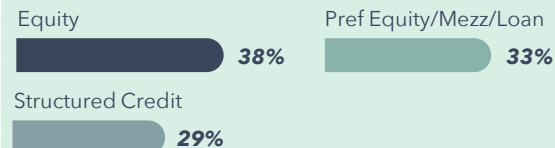
Launched Jul 2020 | Final Close 2021

- Strategies: Opportunistic (Structured Credit, Whole Loans, Special Situation)
- Total Commitments: \$485.6MM
- Net Invested Capital: \$420.1MM²

Current Portfolio

- Investments: 16²
- Actively investing remaining capital during investment period

Invested Portfolio³



SDOF

Launched Oct 2016 | Final Close 2017

- Strategies: Agency & Non-Agency B-Pieces, Value Add Loans
- Total Commitments: \$188.2MM
- Net Invested Capital: \$173.4MM
- \$167MM capital distributed

Remaining Portfolio

- B-Pieces: 8
- Current LTV: 62.1%
- Current DSCR: 1.70x
- DVPI: 0.95
- % of Notional Remaining: 46%

Invested Portfolio



SDOF II

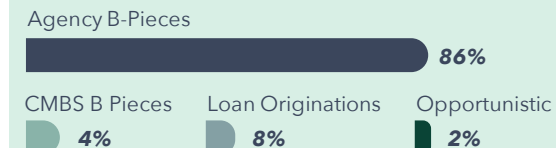
Launched Aug 2018 | Final Close 2019

- Strategies: Agency & Non-Agency B-Pieces, Value Add Loans, Opportunistic
- Total Commitments: \$310.7MM
- Net Invested Capital: \$250.2MM
- \$241MM recycled during inv. period¹
- \$9MM capital distributed

Remaining Portfolio

- Investments: 29
- Current LTV: 60.4%
- Current DSCR: 1.63x

Invested Portfolio



SDOF III

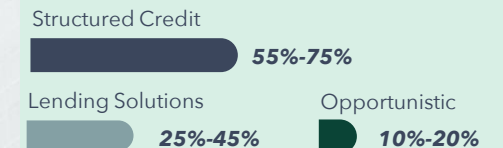
Launched Mar 2023 | Final Close 2023

- Strategies: Agency & Non-Agency B-Pieces, Lending Solutions, Opportunistic
- Current Commitments: \$105.7MM
- Target Commitments: \$500MM
- Net Invested Capital: \$39.2MM

Current Portfolio

- Investments: 3
- Closed SBL and Q-Series B-Pieces in Q3
- In diligence on SBL and CMBS B-Pieces

Target Allocation



¹As of 6/30/2022. Investment period for SSO I ended 9/2023. Investment period for SDOF II ended 10/2022.

²Agency warehousing investments combined into single investment. Investment amount is inclusive of agency warehoused loans totaling \$71.9MM.

³Excludes agency warehousing investments.

Sourcing Advantages

Since 2009, the Manager's senior management team has identified and executed successful investment strategies through changing market conditions¹

Government Relationships

- Manager of five FDIC joint venture partnerships, totaling over \$2.6B in unpaid principal balance.
- Established relationships with a number of governmental agencies including Freddie Mac, Fannie Mae, HUD and the FDIC.
- 2nd largest buyer of B-Pieces in FM SBL securitizations.
- Demonstrated access to pre-placed B-Pieces and other unique agency opportunities.



Opportunistic

- Demonstrated ability to identify, analyze and structure investments.
- Nationwide network of relationships with proven partners.
- Multiple touch points and extended relationships with local sponsors allows consistent and early access to proprietary deal flow.
- Executed joint venture deals throughout the capital stack with well qualified sponsors.



Structured Credit

- Established channels developed to acquire structured credit products on secondary markets by targeting positions at significant discount to new issuance.
- Underwritten senior loans across all core CRE asset types.
- \$3B+ CMBS market rate deals purchased.
- Active participant in major CMBS shelves.



Credit Solutions

- Experienced Senior Management with track record managing ~\$7B credit portfolio.
- Extensive sourcing network with national brokerage firms, banks, real estate operators, GSEs, nonbank lenders, and loan sale advisors.
- Bridge to HUD lending program with CBRE.



¹Occurred through Sabal and formerly affiliated business(es).

SSO Breakdown¹

\$420 million

Total equity invested¹

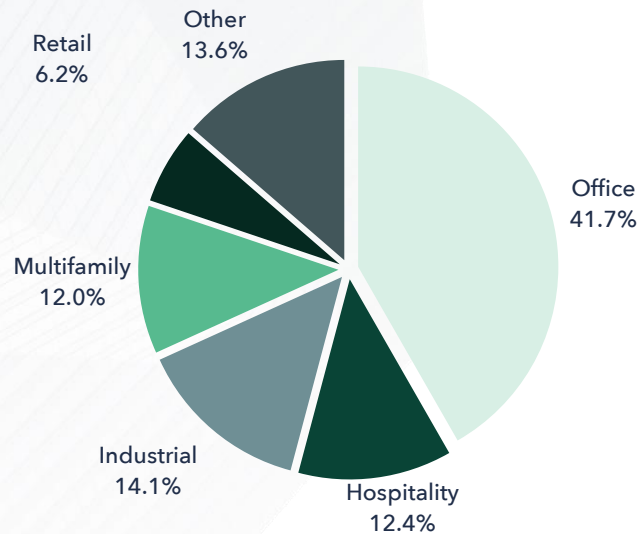
Diversification

Investments in hospitality, office, multifamily, retail, mixed use, industrial, MHC and self storage across 43 states and the District of Columbia¹

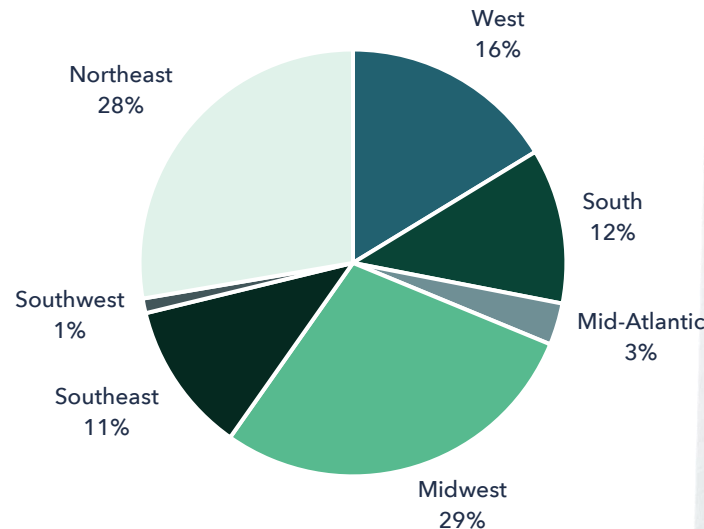
Comprehensive

Investments throughout the capital stack, including preferred equity, mezzanine, whole loan acquisitions, JV equity, bank REO, whole loan B-notes and structured credit¹

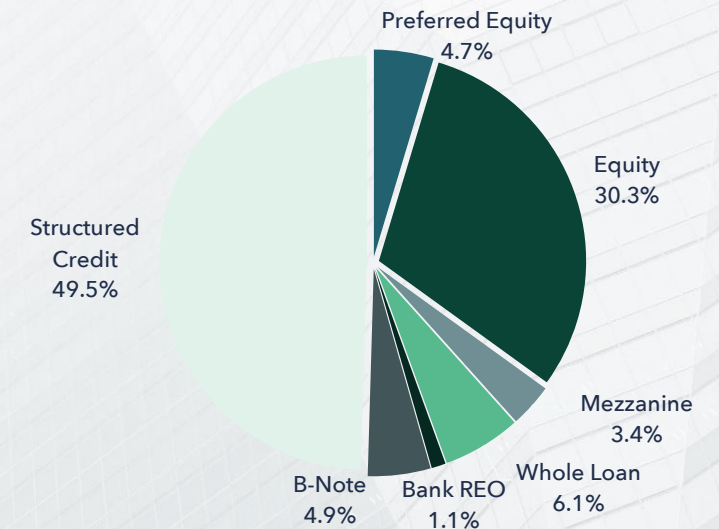
Investments by Property Type^{1,2}



Investments by Region^{1,2}



Investments by Structure^{1,2}



¹As of 6/30/2023. Additional information on these investments will be provided upon request. Neither past performance nor projected returns are indicative of actual future results.

²Excludes agency warehousing investments.

Comprehensive Opportunistic Investment Platform ¹

SSO I has built a portfolio of opportunistic and lending solutions investments diversified across geography, investment structure and property type



Peak Equity by Property and Investment Type							
(\$ in Millions)	Preferred Equity	Mezzanine	Whole Loan	Equity	Bank REO	B-Note	Total
Hospitality	\$16.5	-	\$15.3	\$22.8	\$5.4	-	\$60.1
Office	-	\$16.4	-	\$70.0	-	-	\$86.4
Multifamily	-	-	\$14.2	\$10.1	-	-	\$24.3
Condo	-	-	-	\$5.6	-	-	\$5.6
Multifamily / Retail	\$6.0	-	-	\$4.3	-	-	\$10.3
Retail / Office	-	-	-	-	-	\$9.3	\$9.3
Industrial	-	-	-	\$33.8	-	\$14.4	\$48.2
Total	\$22.5	\$16.4	\$29.5	\$146.6	\$5.4	\$23.7	\$244.2

¹As of 6/30/2023. Additional information on these investments will be provided upon request. Neither past performance nor projected returns are indicative of actual future results.

Select Opportunistic Investments¹

ACQUIRED DEC 2020

Rescue Capital

Full-service, newly constructed luxury hotel in San Diego, CA



\$23 million preferred equity joint venture investment of a best-in-class luxury hotel in Southern California with strong management and ownership

Investment Highlights

- Experienced, Successful Asset and Hotel Managers
- Well Located Property
- Diversified Revenue Streams
- High Quality, Best in Class Asset
- Attractive Basis

ACQUIRED NOV 2022

Mezz / Pref Equity

Best-in-Class Mixed-Use Development in Portland, OR



\$13.0 million direct investment for the final stage build out of a best-in-class mixed-use residential/retail development located in the Arts District of Portland, OR

Investment Highlights

- Newly Constructed, Best-In-Class Mixed-Use Property
- Last Dollar Basis Well Below Development Cost
- Experienced/Accomplished local developer
- Attractive Long-Term Financing

ACQUIRED SEP 2021

Special Situation

Non-Performing Loan / Deed-in-Lieu Investment in Nashville, TN



Pre-negotiated Deed-In-Lieu on ~\$51MM NPL note with bank financing (\$5.4 million net equity) investment for the leasehold interest in two Southeast based hotels

Investment Highlights

- Excellent Locations
- Attractive Basis
- History of Strong Property Cash Flow
- Attractive Financing Package
- Experienced Partners

ACQUIRED JUN 2021

Equity

Class A, Newly Renovated, Trophy Office Tower in Miami, FL



~\$52 million joint venture equity investment of a landmark office tower located in Miami, FL

Investment Highlights

- Premier Office Tower
- Discounted Rents Relative to Brickell Market
- Significant Market Activity
- Attractive Basis
- Experienced, Successful Owner-Operators

¹The examples presented herein do not include or represent all Manager investments or originated loans. The examples are included for informational and illustrative purposes only. It should not be assumed that investments made by the Fund will be comparable in quality or performance to the investments described herein. References to the individual investments above should not be construed as a recommendation of any specific investment. Past performance is not indicative of future results. Full portfolio available upon request.

Experienced Investment Team

Sabal is led by a team of experienced professionals with backgrounds in real estate, banking and capital markets



Pat Jackson

Chief Investment Strategist
Irvine, CA
Industry Experience: 25 years
Sabal, IndyMac

- Pat Jackson is Chief Investment Strategist of Sabal Investment Holdings, LLC ("SIH") and sits on the Firm's Investment Committee.
- Under Pat's leadership, Sabal, together with formerly affiliated businesses, has acquired over \$6B in assets on behalf of its clients and investors including the FDIC and other institutional partners. The firm has grown to include offices in locations across the United States. In addition to its investment business, Sabal's advisory/consulting business has completed over 175 bank valuation assignments including extensive engagements with the FDIC.
- Former CEO and founder of IndyMac Commercial Lending Corporation, which he developed and grew into a leading nationwide small balance commercial and multifamily lending platform with an annualized production of \$1B.



Drake Ayres

Managing Director, Structured Credit
Irvine, CA
Industry Experience: 12 years
SIA, Sabal

- Drake Ayres is a Managing Director for SIH responsible for structured credit investments, capital markets and portfolio management and sits on the Firm's Investment Committee.
- With the firm since inception, Drake has evolved SIH into a leading investor of primary and secondary Agency and CMBS credit opportunities throughout the capital stack. Prior to joining SIH, Drake was a Senior Associate for Sabal Financial Group since 2011 responsible for the portfolio acquisitions and management of over \$5B in commercial debt located across the United States. In this role, he provided loan acquisition, structure and modeling in excess of \$65B worth of commercial assets, headed \$1.2B in CMBS and bank financings, and supported the portfolio management platform, reporting directly to the Chief Investment Officer and Chief Executive Officer.
- Drake received a Bachelors in Business Administration in Economics from the Terry College of Business, University of Georgia.



Tal Seder

Managing Director, Opportunistic
Irvine, CA
Industry Experience: 19 years
Lone Star Funds, JER Partners

- Tal Seder is a Managing Director for SIH and responsible for Opportunistic and sits on the Firm's Investment Committee.
- Prior to joining SIH, Tal co-founded MLN Partners ("MLN"), together with Jon Mirkin. He was responsible for developing, implementing, and overseeing MLN's acquisition and asset management strategies. MLN is a private investment firm focused on acquiring, re-positioning and developing real estate nationally alongside leading local operating partners. Prior to MLN, Tal was a Managing Director at Lone Star Funds spending five years in their London and New York offices. Over the course of his career Tal has led the acquisitions of over \$20B of real estate assets, loans and companies.
- Tal received his undergraduate degree from Georgetown University having double majored in Finance and Accounting, which included business studies at Trinity College at Oxford University. Tal holds an MBA from the Wharton School of Business at the University of Pennsylvania.



Jonathan Mirkin

Managing Director, Opportunistic
Irvine, CA
Industry Experience: 18 years
Kennedy Wilson, Walton Street

- Jonathan Mirkin is a Managing Director for SIH responsible for Opportunistic.
- Prior to joining SIH, Jonathan co-founded MLN, together with Tal Seder. MLN is a private investment firm focused on acquiring, re-positioning and developing real estate nationally alongside leading local operating partners. Prior to founding MLN, Jonathan worked as a Managing Director at Kennedy Wilson. Before Kennedy Wilson, Jonathan spent 10 years working for Walton Street Capital and left as a principal in the fund's acquisition group. Over the course of his career, Jonathan has led the acquisition and financing of over \$2 billion of transactions in primary markets around the United States.
- Jonathan received his undergraduate degree with honors from The University of Wisconsin having majored in Real Estate and Urban Land.

Experienced Investment Team

Sabal is led by a team of experienced professionals with backgrounds in real estate, banking and capital markets



Michael Cook

Managing Director, Lending Solutions
Washington, DC
Industry Experience: 19 years
AFL-CIO Housing Investment Trust

- Michael Cook is a Managing Director for SIH responsible for Lending Solutions and sits on the Firm's Investment Committee.
- Prior to joining SIH, Michael was a Chief Portfolio Manager at AFL-CIO Housing Investment Trust ("HIT"). At the HIT, he led and managed ~\$7B portfolio focused on various whole loan credit investments and specifically HUD securities, GSE conventional MBS securities, and has broad experience in REMIC and private label CMBS structures. He boasts a history with a diverse set of lenders and bolsters Sabal's focus as a capital provider.
- Michael received a degree in both Economics and Finance from University of Kentucky, where he graduated magna cum laude. Michael holds the CFA Institute's Chartered Financial Analyst designation and is a Certified Financial Risk Manager ("FRM"). The FRM designation is the most widely respected and globally recognized certification for financial risk management.



Barton Vaughan

Director, Structured Credit
Washington, DC
Industry Experience: 13 years
CWCapital, Landmark Land

- Barton Vaughan is a Director responsible for structure credit investments.
- Prior to joining Sabal, Barton was a Senior Vice President at CWCapital Asset Management. In this role he led the underwriting of more than 100 CMBS and Freddie Mac B-Pieces for CWCapital's 20+ clients totaling over \$175B in loan amount. Additionally, Barton was responsible for bond surveillance, asset management, and defaulted loan workouts. Before CWCapital, Barton worked as an Associate with Landmark Land Company. Based in Hong Kong, and later the Caribbean and Washington, D.C., his responsibilities included sourcing and underwriting distressed real estate assets, investor relations, and asset management.
- Barton received a BA in History from Davidson College and an MBA from the London Business School.



Mike Mehagian

Senior Associate
Irvine, CA
Industry Experience: 6 years
Sabal

- Mike Mehagian is a Senior Associate and is responsible for investment and portfolio analysis.
- Prior to SIH, Mike was a Senior Associate for Sabal Capital Partners since 2016 and was responsible for the analysis of Sabal's agency and value add loan opportunities. In this role, he supported the production staff by collaboratively reviewing over \$13 billion annually in small balance agency opportunities and coordinating with both Freddie Mac and Fannie Mae teams on pricing and front-end diligence responsibilities. During this time, Mike was a pivotal member in helping the growth of agency platforms, more than doubling annual originations over his tenure and successfully transacting on Sabal's largest portfolios to date.
- Mike received a Bachelors in Business Administration with an emphasis in Finance and Economics Minor from Chapman University.



Ryan Imamura

Senior Associate
Irvine, CA
Industry Experience: 6 years
Clados, Sabal

- Ryan Imamura is a Senior Associate and is responsible for investment and portfolio management.
- Prior to SIH, Ryan was a Corporate Development and Strategy Analyst for Sabal Capital Partners ("SCP") since 2018 and was responsible for strategic planning efforts, new business initiatives, investor reporting and M&A. In this role, he reported directly to the Chief Executive Officer, supporting the launch of SCP's Fannie Mae and CMBS product lines, prepared material for the quarterly meeting with the Board of Directors, and worked on key business initiatives for the company. Before SCP, he worked in economic research and consulting and public equity investment management.
- Ryan received a Bachelor of Arts in Economics from Stanford University and a Master of Business Administration from the Anderson School of Business at the University of California, Los Angeles.

Experienced Fund Management Team

Sabal is led by a team of experienced professionals with backgrounds in real estate, banking and capital markets



Mike Wilhelms

Chief Financial Officer
Irvine, CA
Industry Experience: 25 years
Crescent, Triad Financial Services

- Mike Wilhelms is Chief Financial Officer of Sabal and is responsible for providing strategic leadership in all aspects of the organization's financial operations. He has more than 25 years of experience in corporate finance, company operations and accounting.
- He joins the company following his most recent roles with Crescent Capital Group LP (CCG), an alternative asset management and SEC-registered investment advisory firm with \$25B in assets under management. Previously, Mike was CFO for Triad Financial Corporation, a multi-channel consumer finance provider with a \$5B servicing portfolio and annual originations of \$2B.
- Mike started his career at KPMG in the assurance practice, specializing in financial services. Mr. Wilhelms became a California Certified Public Accountant in 1995. Mr. Wilhelms received his BA in Business Economics with a concentration in Accounting from the University of California Santa Barbara.



Tony Trinh

Fund Controller
Irvine, CA
Industry Experience: 10 years
SS&C, Deutsche Bank

- Tony Trinh is the Fund Controller, responsible for delivery of fund financial services such as accounting, investor reporting and treasury management.
- Before joining Sabal, Tony was a Fund Accounting Manager at SS&C GlobeOp, a leading hedge fund administrator, overseeing the fund administration of various types of funds including private equity, hedge and hybrid funds. Prior to that role, Tony was an Associate with Deutsche Bank Alternative Fund LLC, an alternative fund services provider, responsible for client integration and managing a team of fund accountants. Tony started his career as a Corporate Trust Administrator with Deutsche Bank National Trust Company, responsible for administration of MBS and ABS trusts.
- Tony received a Bachelor of Arts in Philosophy from the University of California, Santa Barbara.



Annie Chen

Tax Director
Irvine, CA
Industry Experience: 20 years
KPMG, Oaktree, EY, Sabal

- Annie Chen is the Tax Director, overseeing tax matters for the Adviser and funds. Annie works with fund counsel on optimizing fund tax structures.
- Prior to Sabal, Annie was a Senior Manager at EY, providing tax services to some of the largest asset management firms in the financial services industry. She assisted clients with agency audits and maximizing tax efficiencies. Previously Annie was also part of the tax department at Oaktree Capital Management, LP, a leading global alternative investment manager. She oversaw the tax compliance for Oaktree's real estate fund strategy.
- Annie began her career at KPMG and is a Certified Public Accountant. She received her Bachelor of Science in Business Administration with an emphasis in accounting from the University of California Riverside.

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EXHIBIT 2
BIDDING PROCEDURES ORDER

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

**[PROPOSED] ORDER (I)
APPROVING THE ENGAGEMENT
AND COMPENSATION OF
MARCUS & MILLICHAP REAL
ESTATE INVESTMENT SERVICES
AS BROKER FOR THE SALE OF
SUBSTANTIALLY ALL ASSETS OF
GLENROSA 32, LLC; (II)
APPROVING THE AUCTION AND
BIDDING PROCEDURES FOR THE
SALE OF SUBSTANTIALLY ALL
ASSETS OF GLENROSA 32, LLC;
AND (III) GRANTING RELATED
RELIEF**

Having considered the Receiver’s Motion for orders: (A) approving (i) the Receiver’s engagement and compensation of Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”) as broker for the sale of substantially all assets of Glenrosa 32, LLC (“Glenrosa 32”), including the real property located at 3200 East Glenrosa Avenue, Phoenix, Arizona, and related assisted living and memory facility business known as “MorningStar at Arcadia”, including equipment, furniture, fixtures and good will associated with the business (collectively, the “Glenrosa Property”), and (ii) the proposed auction and bidding procedures for the sale of the Glenrosa Property (the

1 “Bidding Procedures”), including scheduling an auction and sale hearing date to consider
2 the sale of the Glenrosa Property; (B) approving the sale of the Glenrosa Property to SSOF
3 II ARCADIA PROPCO, LLC (“Stalking Horse Buyer”) or such other bidder that submits
4 a higher and better offer at a public auction, free and clear of all liens, claims,
5 encumbrances and interests; and (C) granting related relief (the “Motion”);¹ and upon
6 consideration of any and all responses and replies relating to the Motion; and upon finding
7 that due and sufficient notice of the Motion has been given and no other or further notice
8 need be given; and after due deliberation and it appearing that the relief sought in the
9 Motion is in the best interest of the Receivership Estate, its creditors, and other parties in
10 interest,
11
12

13
14 **IT IS HEREBY FOUND, DETERMINED, AND CONCLUDED THAT:**

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

17 2. Proper, timely, adequate, and sufficient notice of the Motion has been
18 provided, such notice was sufficient and appropriate under the particular circumstances,
19 and no other or further notice of the Motion or relief sought in the Motion is necessary or
20 required.
21

22 3. A reasonable opportunity to object or be heard regarding the requested relief
23 in the Motion and this Order has been afforded to all interested parties, including, without
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¹ Capitalized undefined terms shall have the meanings ascribed to them in the Motion.

1 limitation, all parties to this action and all persons or entities known to the Receiver that
2 have or may have an interest in any portion of the Glenrosa Property.

3 4. The Receiver has the power and authority to sell the Glenrosa Property, or
4 any portion of the Receivership Estate, at a public sale pursuant to and in accordance with
5 the Bidding Procedures, free and clear of liens, claims, and encumbrances, with such liens,
6 claims, and encumbrances attaching to the proceeds of such sale with the same validity and
7 in the same order of priority.
8

9
10 5. Upon the Receiver's appointment and after investigating the financial
11 condition of the Receivership Estate, the Receiver undertook a comprehensive effort to
12 solicit interest from potential purchasers for the Glenrosa Property.
13

14 6. The Receiver's entry into the Marcus & Millichap Exclusive Representation
15 Agreement, and the underlying retention of Marcus & Millichap, as a disinterested
16 professional, is in the best interest of the Receivership Estate and its creditors.

17 7. The Receiver's existing and continued marketing efforts, combined with the
18 publication set forth herein is reasonable and sufficient.
19

20 8. The Receiver has demonstrated a sufficient basis and compelling
21 circumstances requiring the entry of this Order, the selection of the Stalking Horse Buyer,
22 the Break-up Fee provided to the Stalking Horse Buyer, and the proposed sale of the
23 Glenrosa Property in accordance with the Bidding Procedures, and such actions: (a) are
24 appropriate exercises of the Receiver's reasonable business judgment; (b) are in the best
25 interest of the Receivership Estate and its creditors; and (c) meet the requirements of and
26 are consistent with 28 U.S.C. §§ 2001, 2002, and 2004.
27
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1 9. The Receiver’s authorization to pay the Break-up Fee is reasonable under the
2 circumstances as an essential inducement and condition relating to the Stalking Horse
3 Buyer’s entry into, and continuing obligations under the Stalking Horse Agreement.
4

5 10. The Receiver’s promise to pay the Break-up Fee, which has induced the
6 Stalking Horse Buyer to submit its bid that will serve as a minimum or floor bid on which
7 the Receiver can rely, provides a material benefit to the Receivership Estate, by increasing
8 the likelihood that the best possible purchase price for the Glenrosa Property will be
9 received. The Break-up Fee may be paid by the Receiver without further hearing or proof
10 upon closing of a sale of the Glenrosa Property to any bidder who submits a higher and
11 better offer at the Auction.
12

13 11. The Bidding Procedures are reasonable, non-collusive, negotiated in good
14 faith, substantively and procedurally fair, and will enable the Receiver to obtain the highest
15 value for the Glenrosa Property.
16

17 12. The Receiver may sell the Glenrosa Property in accordance with the Bidding
18 Procedures.
19

20 **NOW, THEREFORE, BASED UPON THE FOREGOING FINDINGS AND**
21 **THE RECORD BEFORE THIS COURT, IT IS HEREBY**

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

23 **ORDERED** that any and all objections to the Motion concerning the Bidding
24 Procedures and relief granted in this Order that have not been withdrawn, waived, resolved,
25 sustained, or settled, are expressly denied and overruled in their entirety; and it is further
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1 **ORDERED** that the Marcus & Millichap Exclusive Representation Agreement as
2 set forth in Exhibit B to the Declaration of Randall Coxworth annexed to the Motion, is
3 approved; and it is further
4

5 **ORDERED** that the Stalking Horse Agreement as set forth in Exhibit D to the
6 Declaration of Randall Coxworth, annexed to the Motion, is approved; and it is further

7 **ORDERED** that the Bidding Procedures, as set forth in Exhibit A to this Order are
8 approved in their entirety; and it is further
9

10 **ORDERED** that the Receiver may proceed to sell the Glenrosa Property, in
11 accordance with the Bidding Procedures; and it is further

12 **ORDERED** that the Receiver may proceed to sell the Glenrosa Property free and
13 clear of liens, claims, encumbrances, and other interests at a public auction to be held by
14 Zoom in accordance with and subject to the Bidding Procedures on [] []
15], 2024, at [:] [.m] (Phoenix Time); and it is further

17 **ORDERED** that the Stalking Horse Buyer's deposit (as provided in the Stalking
18 Horse Agreement) shall be held in escrow and shall not constitute or be deemed to
19 constitute property of any receivership estate or the Receiver, and the Receivership Estate
20 and Receiver shall have no interest of any kind (equitable or otherwise) in the deposit
21 unless and until such deposit is actually unconditionally paid or payable in accordance with
22 the Stalking Horse Agreement, and no liens, claims or encumbrances shall attach to the
23 deposit; and it is further
24

26 **ORDERED** that the Sale Hearing shall be held in Courtroom [] at the
27 United States District Court for the District of Arizona, Sandra Day O'Connor U.S.
28

1 Courthouse, 401 W. Washington St., Suite 130, SPC 1, Phoenix, Arizona 85003-2118, on
2 [] [], 2024, at [:] [.m] (Phoenix Time); and it is further

3 **ORDERED** that any objection on any basis to the proposed sale of the Glenrosa
4 Property must be filed in writing with the Court no later than [] [
5], 2024, at [:] [.m] (Phoenix Time) (the “Objection Deadline”) and
6 served on (a) counsel to the Receiver, Archer & Greiner, P.C., Attn: Allen G. Kadish and
7 Harrison H.D. Breakstone, 1211 Avenue of the Americas, New York, New York 10036,
8 and (b) counsel to the Stalking Horse Buyer, Williams Mullen, Attn: Robert C. Dewar,
9 Williams Mullen Center, 200 South 10th Street, Suite 1600, Richmond, Virginia 23219;
10 and it is further

11 **ORDERED** that the Receiver shall: (a) provide notice to (i) all relevant federal,
12 state and local taxing and regulatory authorities or offices that have a reasonably known
13 interest in the relief requested in the Motion; (ii) counsel to the Stalking Horse Buyer; (iii)
14 the parties set forth on the certificate of service of the Motion and any other party that has
15 entered an appearance in this case or otherwise requested notice in this case; and (iv) all of
16 the persons or entities the Receiver has identified as (A) having an interest in the Glenrosa
17 Property or (B) potentially interested in acquiring the Glenrosa Property; (b) publish a
18 notice of Auction and Sale Hearing with Arizona Business Gazette once a week for at least
19 four (4) weeks prior to the proposed Auction, which publication shall be deemed due,
20 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

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

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

6 **ORDERED** that under no circumstances shall any prospective purchaser have any
7 claims at law or equity against the Receiver, his professionals or the Receivership Estate
8 arising out of their participation or involvement in the Auction or the purchase and sale of
9 the Glenrosa Property; and it is further

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

12 **ORDERED** that this Court shall retain jurisdiction over any and all matters or
13 disputes arising from or related to this Order or its enforcement.
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15 Dated: _____, 2024
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EXHIBIT A

BIDDING PROCEDURES

**MORNINGSTAR AT ARCADIA
3200 EAST GLENROSA AVENUE
PHOENIX, AZ 85018**

CASE NO. 23-CV-02470-DLR

Allen D. Applbaum, as receiver (the “Receiver”) for ArciTerra Companies, LLC and related entities including, but not limited to Glenrosa 32, LLC (“Glenrosa 32”), submits the following sale and bidding procedures (the “Bidding Procedures”) for the sale of substantially all assets of Glenrosa 32, including the real property located at 3200 East Glenrosa Avenue, Phoenix, Arizona, 85018 and related assisted living and memory facility business known as “MorningStar at Arcadia”, including equipment, furniture, fixtures and good will associated with the business (collectively, the “Glenrosa 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 Glenrosa Property held by Zoom on May __, 2024, beginning at 10:00 a.m. (Phoenix Time). Instructions for attending the Auction will be delivered by Marcus & Millichap Real Estate Investment Services, as broker for the Receiver.

The Receiver has entered into an Asset Purchase Agreement with SSOF II ARCADIA PROPCO, LLC (the “Stalking Horse Buyer”), dated April __, 2024 (the “Stalking Horse Agreement”) providing for a purchase price for the Glenrosa Property of Twenty Eight Million Two Hundred Fifty Thousand and 00/100 Dollars (\$28,250,000.00) (the “Purchase Price”).

Only “Qualified Bidders” shall be permitted to attend the Auction and submit bids for the Glenrosa 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 the Receiver that (1) is accompanied by a fully executed asset purchase agreement for the Glenrosa 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

1 to close and consummate the transaction no later than twenty (20) business days
2 of entry of the Sale Order.

- 3 b. Provides evidence, in a form reasonably acceptable to the Receiver, that the
4 prospective purchaser has funds immediately available to pay the Purchase Price
5 for the Glenrosa Property, plus the Minimum Initial Overbid Amount.
- 6 c. Submits a good faith deposit of five percent (5%) of the amount bid by such
7 prospective purchaser (the "Deposit") by wire transfer or certified bank check to
8 be held in escrow by First Chicago Title Company. Deposit instructions will be
9 provided upon request to Marcus & Millichap or the Receiver's undersigned
10 counsel. The Deposit of each prospective purchaser that complies with
11 subsections a. and b. above (each, a "Qualified Bidder") that is not determined
12 at the Auction to have submitted the Successful Bid (as defined below) or the
13 Back Up Bid (as defined below) shall be irrevocable and non-refundable until
14 such time as the Auction concludes or the Receiver receives and accepts a higher
15 or better bid at the Auction. At the conclusion of the Auction, the Successful
16 Bidder and Back-up Bidder shall increase the Deposit amount to ten percent
17 (10%) of the Purchase Price after the Auction. The Deposit submitted by a
18 Qualified Bidder that submits the Back Up Bid shall be irrevocable and
19 nonrefundable until the closing of the sale of the Glenrosa Property to the
20 Successful Bidder.
- 21 d. The Stalking Horse Buyer is Deemed a Qualified Bidder: Notwithstanding the
22 bidding requirements above, the Stalking Horse Buyer is deemed a Qualified
23 Bidder.
- 24 e. Minimum Initial Overbid and Subsequent Overbids: All initial overbids must be
25 at least \$1,000,000 in excess of the Purchase Price (the "Minimal Initial Overbid
26 Amount"). Subsequent overbids shall be in increments of at least \$100,000
27 above the Minimal Initial Overbid Amount and subsequent higher bids.
- 28 f. Bidding at the Auction: The Auction shall continue until there is only one bid
made by a Qualified Bidder (a "Qualified Bid") that the Receiver, in consultation
with Marcus & Millichap and his other professionals, determines is the highest
and best Qualified Bid (the "Successful Bid"). The Receiver shall also
determine which Qualified Bid is the second highest and best Qualified Bid (the
"Back Up Bid"). To the extent the Stalking Horse Buyer Purchase Price is the
second highest and best Qualified Bid it shall be the Back Up Bid.

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- g. Due Diligence. All Qualified Bidders will be permitted to conduct due diligence on the Glenrosa 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
SUBSTANTIALLY ALL ASSETS OF
GLENROSA 32, LLC**

TO ALL PARTIES IN INTEREST:

Notice is hereby given that Allen D. Applbaum, as Receiver for ArciTerra Companies, LLC and related entities including, but not limited to Glenrosa 32, LLC, intends to sell, through his broker, Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”), substantially all assets of Glenrosa 32, LLC, including the real property located at 3200 East Glenrosa Avenue, Phoenix, Arizona and related assisted living and memory facility business known as “MorningStar at Arcadia”, including equipment, furniture, fixtures and good will associated with the business (collectively, the “Glenrosa Property”), free and clear of all liens, claims, interests and encumbrances (the “Sale”).

1 Pursuant to the Motion for Entry of an Orders: (A) approving (i) the Receiver’s
2 engagement and compensation of Marcus & Millichap as broker for the sale of
3 substantially all assets of Glenrosa 32, LLC, including the Glenrosa Property, and (ii) the
4 proposed auction and bidding procedures for the sale of the Glenrosa Property (the
5 “Bidding Procedures”), including the scheduling of an Auction and Sale Hearing to
6 consider the sale of the Glenrosa Property; (B) approving the sale of the Glenrosa Property
7 to **SSOF II ARCADIA PROPCO, LLC** (“Stalking Horse Buyer”) or such other bidder
8 that submits a higher and better offer at a public auction, free and clear of all liens, claims,
9 encumbrances and interests; and (C) granting related relief (the “Sale Motion”), the
10 Receiver is soliciting higher and better offers for the Glenrosa Property.

11 The Receiver is soliciting higher and better offers by means of an Auction, which
12 shall be governed by the terms and conditions of the order establishing bidding procedures
13 (the “Bidding Procedures Order”) approved by the Court on April __, 2024.

14 The Sale Motion and the Bidding Procedures Order are on file with the United States
15 District Court for the District of Arizona, Sandra Day O’Connor U.S. Courthouse, 401 W.
16 Washington St., Suite 130, SPC 1, Phoenix, Arizona 85003-2118 (the “Court”), and are
17 available for review during regular business hours. **Copies of the Sale Motion, the**
18 **Bidding Procedures Order, and the Stalking Horse Buyer Asset Purchase Agreement**
19 **are also available upon request from the undersigned or by visiting the Receiver’s**
20 **website at www.arciterrareceivership.com.**

21 **OBJECTIONS**, if any, to the relief requested in the Sale Motion or to final approval
22 of the proposed Sale of the Glenrosa Property must be filed in writing with the Clerk of the
23 Court on or before May __, 2024 at 5:00 p.m., Phoenix Time (the “Objection Deadline”). A
24 copy of the objection must also be served on all of the following so as to be received by
25 the Objection Deadline: (i) counsel to the Receiver, Archer & Greiner, P.C., Attn: Allen
26 G. Kadish and Harrison H.D. Breakstone, 1211 Avenue of the Americas, New York, New
27 York 10036, and (b) counsel to the Stalking Horse Buyer, Williams Mullen, Attn: Robert
28 C. Dewar, Williams Mullen Center, 200 South 10th Street, Suite 1600, Richmond, Virginia
23219.

29 **Through this Notice, HIGHER AND BETTER OFFERS to purchase the**
30 **Glenrosa Property are hereby solicited.** If offers are timely received, an auction will be
31 held on May __, 2024 at 10:00 a.m., Phoenix Time, by Zoom. Instructions for attending the
32 Auction will be delivered by Marcus & Millichap to all Qualified Bidders (as defined in
33 the Bidding Procedures Order).

34 A FINAL HEARING on the Sale Motion will take place on May __, 2024 at __:00
35 a.m., Phoenix Time, at the United States District Court for the District of Arizona, Sandra
36 Day O’Connor U.S. Courthouse, 401 W. Washington St., Suite 130, SPC 1, Phoenix,
37 Arizona 85003-2118, before the Honorable Douglas L. Rayes.

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

If you have any questions regarding or would like copies of materials relating to the information in this Notice, please make such request in writing to Counsel for 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.

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EXHIBIT 3
SALE ORDER

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

3 Securities and Exchange Commission,
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5 Plaintiff,

6 v.

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

11 Defendants, and

12 Michelle Larmore; Marcia Larmore;
13 CSL Investments, LLC;
14 MML Investments, LLC;
15 Spike Holdings, LLC;
and JMMAL Investments, LLC,

16 Relief Defendants.
17

Case No. 23-cv-02470-DLR

**[PROPOSED] ORDER (I)
APPROVING (A) THE SALE OF
SUBSTANTIALLY ALL ASSETS OF
GLENROSA 32, LLC, FREE AND
CLEAR OF ALL LIENS, CLAIMS,
ENCUMBRANCES AND INTERESTS
AND (B) GRANTING RELATED
RELIEF**

18 Having considered the Receiver's Motion for Orders: (A) approving (i) the
19 Receiver's engagement and compensation of Marcus & Millichap Real Estate Investment
20 Services ("Marcus & Millichap") as broker for the sale of substantially all assets of
21 Glenrosa 32, LLC ("Glenrosa 32"), including the real property located at 3200 East
22 Glenrosa Avenue, Phoenix, Arizona, and related assisted living and memory facility
23 business known as "MorningStar at Arcadia", including equipment, furniture, fixtures and
24 good will associated with the business (collectively, the "Glenrosa Property"), and (ii) the
25 proposed auction and bidding procedures for the sale of the Glenrosa Property (the
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1 “Bidding Procedures”), including the scheduling of an auction and sale hearing to consider
2 the sale of the Glenrosa Property; (B) approving the sale of the Glenrosa Property to SSOF
3 II ARCADIA PROPCO, LLC (“Stalking Horse Buyer”) pursuant to the Asset Purchase
4 Agreement dated April __, 2024 (the “Stalking Horse Agreement”) or such other bidder
5 that is qualified and submits a higher and better offer at a public auction, free and clear of
6 all liens, claims, encumbrances and interests; and (C) granting related relief (the “Motion”);
7 and upon consideration of any and all responses and replies relating to the Motion; and
8 upon finding that due and sufficient notice of the Motion has been given and no other or
9 further notice need be given; and after due deliberation and it appearing that the relief
10 sought in the Motion is in the best interest of the Receivership Estate, its creditors, and
11 other parties in interest,
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15 **IT IS HEREBY FOUND, DETERMINED, AND CONCLUDED THAT:**¹

16 1. This Court has jurisdiction over this matter, the above-captioned defendants
17 and relief defendants, and over the property of each Receivership Estate.

18 2. The approval of the sale of the Glenrosa Property is within the sound legal
19 discretion of this Court.

20 3. It is necessary and appropriate for this Court to retain jurisdiction to, among
21 other things, (a) interpret, implement, and enforce the terms and provisions of this Order,
22 the Stalking Horse Agreement, all amendments to the Stalking Horse Agreement, any
23 waivers and consents under the Stalking Horse Agreement, and each of the agreements
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27 ¹ Capitalized undefined terms shall have the meanings ascribed to them in the Motion.
28

1 executed in connection with the Stalking Horse Agreement, (b) any agreement provided
2 by a Qualified Bidder in connection with the Auction (a "Qualified Bid PSA"), all
3 amendments to any Qualified Bid PSA, any waivers and consents under any Qualified Bid
4 PSA, and each of the agreements executed in connection with any Qualified Bid PSA, and
5 (c) to adjudicate, if necessary, any and all disputes concerning or relating in any way to
6 the sale of the Glenrosa Property, and such jurisdiction is retained.
7

8 **PROPER NOTICE OF THE MOTION AND AUCTION**
9

10 4. The Receiver properly provided notice, pursuant to and in accordance with
11 the Bidding Procedures Order, and no other or further notice is necessary or required.

12 5. The Receiver has adequately disclosed all material terms and conditions
13 regarding the Bidding Procedures, Stalking Horse Agreement, and sale of the Glenrosa
14 Property.
15

16 6. The notice provided by the Receiver was in substantial compliance with all
17 applicable laws and satisfied all due process requirements.

18 7. The notice provided was reasonably calculated to apprise all interested
19 parties of the sale of the Glenrosa Property free and clear of all liens, claims, encumbrances,
20 and other interests.
21

22 8. As a result, notice of the Motion, Bidding Procedures, Sale Hearing, and
23 Auction and a reasonable opportunity to object or be heard with respect to the foregoing
24 has been afforded to all interested persons and entities, and the notice provided is
25 appropriate and sufficient for all purposes, including the sale of the Glenrosa Property free
26 and clear of all liens, claims, encumbrances, and other interests.
27
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1 18. Neither the sale of the Glenrosa Property nor the Final PSA violate or are
2 otherwise inconsistent with the Bidding Procedures Order, the Bidding Procedures, or
3 applicable law.
4

5 19. The Successful Bid and Final PSA constitute the highest and best offer for
6 the Glenrosa Property and will provide a greater recovery for each Receivership Estate's
7 creditors than would be provided by any other practical alternative.
8

9 20. The Receiver's determination that the Successful Bid and Final PSA
10 constitute the highest and best offer for the Glenrosa Property constitutes a valid and sound
11 exercise of the Receiver's reasonable business judgment.

12 21. The Successful Bid and Final PSA represent a fair and reasonable offer to
13 purchase the Glenrosa Property under the circumstances of this receivership case.
14

15 22. The Receiver's decision to sell the Glenrosa Property to the Successful
16 Bidder pursuant to the Final PSA and this Order is supported by good business reasons and
17 sound justification based upon the Receiver's experience and the circumstances presented
18 in this case.
19

20 **GOOD FAITH OF THE SUCCESSFUL BIDDER**

21 23. The Successful Bidder is an independent legal entity separate and distinct
22 from the Receiver or any other party to this case. The Successful Bidder is not an affiliate,
23 subsidiary, or other insider of any of the parties to this case or the Receiver. The Successful
24 Bidder has no common equity holders, directors, managers, or officers with any of the
25 parties to this case or the Receiver. The Successful Bidder is not a mere continuation of the
26 Defendants and there is no continuity of enterprise among the parties to this case or the
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1 Receiver. The Successful Bidder is not holding itself out to the public as a continuation of
2 the Defendants or the Receiver.

3 24. The terms of the sale of the Glenrosa Property, as set forth more specifically
4 in the Final PSA, are fair and reasonable under the circumstances.

5 25. The sale of the Glenrosa Property to the Successful Bidder in all respects
6 complies with the Bidding Procedures, Bidding Procedures Order, and applicable law.

7 26. The Successful Bidder negotiated the terms and conditions of the sale of the
8 Glenrosa Property in good faith and at arm's length.

9 27. The Successful Bidder is entering into the Final PSA and sale of the Glenrosa
10 Property in good faith and is a good faith purchaser for value.

11 28. The Successful Bidder will be acting in good faith in closing the sale of the
12 Glenrosa Property pursuant to the Final PSA after entry of this Order.

13 29. This Court has found that the Successful Bidder has acted in good faith in all
14 respects in connection with this case, the Bidding Procedures, the Auction, and the sale of
15 the Glenrosa Property.

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20 **NO FRAUDULENT TRANSFER**

21 30. The consideration provided for the Glenrosa Property under the Final PSA:
22 (a) is fair and reasonable; (b) is the highest or otherwise best offer for the Glenrosa
23 Property; and (c) constitutes reasonably equivalent value for the Glenrosa Property.

24
25 **VALIDITY OF TRANSFER**

26 31. The Receiver's transfer of the Glenrosa Property including fee title to the real
27 property along with this Order will be a legal, valid, and effective transfer of the Glenrosa
28

1 Property including fee title to the real property and will indefeasibly vest the Successful
2 Bidder with good and valid title in and to the Glenrosa Property free and clear of any Liens
3 (as defined below).
4

5 32. The Receiver has full power and authority to execute and consummate the
6 Final PSA and all related documents and is directed to do so, and no consents or approvals
7 (other than those expressly provided for in the Final PSA) are required to consummate the
8 transactions contemplated by the Final PSA and this Order.
9

10 33. The Receiver (i) has all rights and powers with respect to the Receivership
11 Estate, including the Glenrosa Property, (ii) possesses good, valid, and marketable title to
12 the Glenrosa Property, and (iii) has the ability and authority to convey the Glenrosa
13 Property to the Successful Bidder on the terms and conditions set forth in the Final PSA
14 and this Order.
15

16 34. The Receiver and Successful Bidder proposed, negotiated, and entered into
17 the Final PSA without collusion, in good faith, and from arm's length bargaining positions.
18

19 35. Neither the Receiver nor the Successful Bidder have engaged in any conduct
20 that would cause or permit the Final PSA or transactions contemplated by the Final PSA
21 to be avoided or otherwise set aside.
22

23 **THE SALE IS IN THE BEST INTEREST OF**
THE RECEIVERSHIP ESTATE AND ITS CREDITORS

24 36. The approval and consummation of the sale of the Glenrosa Property
25 pursuant to and in accordance with the Final PSA and this Order is in the best interest of
26 the Receivership Estate and its creditors.
27
28

1 **NOW, THEREFORE, BASED UPON THE FOREGOING FINDINGS AND**
2 **THE RECORD BEFORE THIS COURT, IT IS HEREBY**

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

4 **ORDERED** that all objections to the Motion concerning the Auction, Successful
5 Bid, Successful Bidder, marketing process employed by the Receiver, Final PSA or
6 otherwise relating to the sale of the Glenrosa Property and relief granted in this Order that
7 have not been withdrawn, waived, resolved, sustained, or settled are expressly denied and
8 overruled in their entirety; and it is further

9 **ORDERED** that the Final PSA, as set forth in Exhibit 1 to this Order, is approved
10 in its entirety; and it is further

11 **ORDERED** that the Glenrosa Property includes fee title to the real estate, free and
12 clear of all Liens and Encumbrances in accordance with the Final PSA and this Order; and
13 it is further

14 **ORDERED** that the Receiver is authorized to take all actions to consummate the
15 sale of the Glenrosa Property pursuant to and in accordance with the Final PSA and this
16 Order, including transferring and conveying the Glenrosa Property to the Successful
17 Bidder; and it is further

18 **ORDERED** that the Receiver is authorized, directed, and empowered to
19 consummate and implement fully the Final PSA, together with all additional instruments
20 and documents that may be necessary or desirable to implement and consummate the sale
21 of the Glenrosa Property in accordance with the Final PSA and this Order; and it is further

1 **ORDERED** that the Receiver is authorized and directed to take all actions
2 necessary or desirable for the purpose of assigning, transferring, granting, conveying, and
3 conferring the Glenrosa Property to the Successful Bidder; and it is further
4

5 **ORDERED** that, time being of the essence, the Successful Bidder is directed to use
6 its best efforts to close the sale of the Glenrosa Property in accordance with the terms of
7 the Final PSA and this Order, but in no event shall closing occur more than twenty (20)
8 business days after entry of this Order; and it is further
9

10 **ORDERED** that, in the Receiver's sole discretion, any agreements, documents, or
11 other instruments executed in connection with the Final PSA may be modified, amended,
12 or supplemented by the Receiver and Successful Bidder in accordance with the terms of
13 the Final PSA, without further notice or order of this Court, provided that any such
14 modification, amendment, or supplement does not have a material adverse effect on the
15 Receivership Estate; and it is further
16

17 **ORDERED** that the Receiver is authorized to pay the undisputed amounts due and
18 owing to Arizona Bank & Trust; and it is further
19

20 **ORDERED** that the transfer of the Glenrosa Property to the Successful Bidder shall
21 be free and clear of any and all liens, encumbrances, claims, charges, defenses, offsets,
22 recoupments, and interests on the foregoing and against the foregoing of whatever type or
23 description, including, without limitation, the Excluded Liabilities (as defined in the Final
24 PSA), tax claims and tax liens (other than tax liens for real estate taxes which shall be paid
25 at closing as more fully set forth in the Final PSA), and any restrictions on or conditions to
26 transfer or assignment, liens, mortgages, security interests, pledges, hypothecations,
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1 control agreements, equities and other claims and interests having arisen, existed, or
2 accrued prior to and through the Closing Date (as defined in the Final PSA), whether direct
3 or indirect, monetary or non-monetary, arising at law or in equity, contract or tort, absolute
4 or contingent, matured or unmatured, voluntary or involuntary, liquidated or unliquidated,
5 of, by, or against the Glenrosa Property (collectively, the “Liens and Encumbrances”); and
6 it is further
7

8 **ORDERED** that any and all Liens and Encumbrances will attach to the net proceeds
9 of the sale of the Glenrosa Property with the same effect, validity, enforceability, and
10 priority as such Liens and Encumbrances had against the Glenrosa Property prior to the
11 sale authorized by this Order, subject to any rights, claims, defenses, and objections of the
12 Receiver and all interested parties with respect to such Liens and Encumbrances; and it is
13 further
14

15 **ORDERED** that no party shall have any rights of redemption with respect to the
16 Glenrosa Property; and it is further
17

18 **ORDERED** that the transfer of the Glenrosa Property to the Successful Bidder may
19 not be avoided under any applicable law, because the Successful Bidder is providing the
20 Receivership Estates with reasonably equivalent value; and it is further
21

22 **ORDERED** that all entities that are presently, or upon closing may be, in possession
23 of some or all of the Glenrosa Property are directed to surrender possession of the Glenrosa
24 Property to the Receiver or the Receiver’s designee; and it is further
25

26 **ORDERED** that the provisions of this Order authorizing the sale of the Glenrosa
27 Property free and clear of any and all Liens and Encumbrances shall be, and are, self-
28

1 executing, and the Receiver and Successful Bidder shall not be required, but are permitted
2 in their discretion, to execute or file releases, termination statements, assignments,
3 consents, or other instruments in order to effectuate, consummate, and implement the
4 provisions of the Final PSA and this Order; and it is further
5

6 **ORDERED** that neither the purchase of the Glenrosa Property nor the subsequent
7 operation of the Glenrosa Property by the Successful Bidder shall cause the Successful
8 Bidder or its affiliates, successors, or assigns or their respective properties (including the
9 Glenrosa Property) to be deemed a successor in any respect of the Receivership Entities'
10 or the above-captioned defendants' business operations within the meaning of any laws,
11 rules, or regulations relating to any tax, revenue, pension, benefit, ERISA, environmental,
12 labor, employment, products liability, or other law, rule, or regulation of any federal, state,
13 or local government; and it is further
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16 **ORDERED** that, upon closing, this Order and the documents executed in
17 connection with and pursuant to this Order constitute a full and complete general
18 assignment, conveyance, and transfer of the Glenrosa Property or a deed or a bill of sale
19 transferring good and marketable title in the Glenrosa Property to the Successful Bidder on
20 the Closing Date free and clear of all Liens and Encumbrances, and each and every federal,
21 state, and local governmental agency or department is directed to accept this Order as such
22 an assignment, deed, or bill of sale or any and all documents and instruments necessary
23 and appropriate to consummate the transactions contemplated by the Final PSA and this
24 Order; and it is further
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1 **ORDERED** that, if necessary, this Order shall be accepted for recordation on or
2 after the Closing Date as conclusive evidence of the free and clear, unencumbered transfer
3 of title to the Glenrosa Property to the Successful Bidder; and it is further
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5 **ORDERED** that this Order is effective as a determination that any and all Liens and
6 Encumbrances, if any, will be, and are, without further action by any person or entity,
7 unconditionally released, discharged, and terminated with respect to the Glenrosa Property;
8 and it is further
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10 **ORDERED** that this Court retains exclusive jurisdiction to (a) enforce and
11 implement the Final PSA and any other agreements, documents, and instruments executed
12 in connection with the Final PSA, (b) compel delivery of possession of the Glenrosa
13 Property (or any part of the Glenrosa Property) to the Successful Bidder, (c) resolve any
14 disputes, controversies, or claims arising out of or relating to the Final PSA, this Order, or
15 the sale of the Glenrosa Property, and (d) interpret, implement, and enforce the provisions
16 of this Order; and it is further
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18 **ORDERED** that the terms and conditions of the Final PSA and this Order will be
19 binding in all respects upon, and will inure to the benefit of, the Receiver, the Receivership
20 Estate, the Receivership Entities, Glenrosa 32, the Successful Bidder, and their respective
21 affiliates, successors and assigns, and any affected third parties; and it is further
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23 **ORDERED** that all persons who hold Liens and Encumbrances against the
24 Glenrosa Property are forever estopped and permanently enjoined from asserting or
25 prosecuting any claims or causes of action against the Successful Bidder, its affiliates,
26 successors or assigns, or any of their respective officers, directors, employees, attorneys or
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1 advisors, arising out of or in connection with the sale of the Glenrosa Property or any
2 liabilities owed by the above-captioned defendants; and it is further

3 **ORDERED** that, the Receiver, Marcus & Millichap and their representatives and
4 professionals shall not be liable or bound to any person including the Successful Bidder, in
5 any manner by expressed or implied warranties, guarantees, promises, statements,
6 representations or information pertaining to the Glenrosa Property, made or furnished by
7 any of them or any other real estate broker, agent, employee, servant or other person or
8 professional representing or purporting to represent the Receiver and Marcus & Millichap,
9 unless such warranties, guaranties, promises, statements, representations or information are
10 expressly and specifically set forth in writing within the Stalking Horse Agreement; and it
11 is further
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15 **ORDERED** that, to the extent of any inconsistency between the provisions of any
16 agreements, documents, or other instruments executed in connection with the Final PSA
17 and this Order, the provisions of this Order control; and it is further

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19 **ORDERED** that the Receiver is authorized to pay Marcus & Millichap its
20 commission in the amount of \$[**in an amount to be determined that is equal to 1.5% of**
21 **the Purchase Price**] at the closing of the sale of the Glenrosa Property; and it is further

22 **ORDERED** that there is no just delay for the implementation of this Order and, for
23 all purposes, this Order shall be a final order upon its entry with respect to the sale of the
24 Glenrosa Property and other relief granted in this Order.

25
26 Dated: _____, 2024

27 228611558 v11 _____
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