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

United States Securities and Exchange
Commission,

Plaintiff,

v.

Jonathan Larmore, et al.,

Defendants, and

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

Relief Defendants.

No. CV-23-02470-PHX-DLR

**ORDER (I) APPROVING (A) THE
ENGAGEMENT AND
COMPENSATION OF MARCUS &
MILLICHAP REAL ESTATE
INVESTMENT SERVICES AS
BROKER FOR THE SALE OF THE
REAL PROPERTIES OWNED BY
ATA MERCADO ST. AUGUSTINE
FL, LLC AND ATA PALENCIA ST.
AUGUSTINE FL, LLC, AND (B)
THE AUCTION AND SALE
PROCEDURES FOR THE SALE OF
THOSE PROPERTIES; AND (III)
GRANTING RELATED RELIEF**

The Court has 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 two multi-use retail centers located in St. Augustine, Florida (together, the “Properties”) owned by Receivership Entities, ATA Mercado St. Augustine FL, LLC (“ATA Mercado”) and ATA Palencia St. Augustine FL, LLC (“ATA Palencia”), and (ii) the proposed auction and sale procedures (the “Sale Procedures”) for the sale of the Properties; (B) approving the sale of the

1 Properties to the bidders who submit the highest and best offers for the Properties at the
2 auction, free and clear of all liens, claims, encumbrances and interests; and (C) granting
3 related relief (Doc. 147, the “Motion”).¹ The Court finds the relief sought in the Motion is
4 in the best interest of the Receivership Estate, its creditors, and other parties in interest.

5 The Court makes the following findings:

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

8 2. Proper, timely, adequate, and sufficient notice of the Motion has been
9 provided, such notice was sufficient and appropriate under the particular circumstances,
10 and no other or further notice of the Motion or relief sought in the Motion is necessary or
11 required.

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

16 4. The Receiver has the power and authority to sell the Properties, or any
17 portion of the Receivership Estate, at a public sale pursuant to and in accordance with the
18 Sale Procedures, free and clear of liens, claims, and encumbrances, with such liens,
19 claims, and encumbrances attaching to the proceeds of such sale with the same validity
20 and in the same order of priority.

21 5. Upon the Receiver’s appointment and after investigating the financial
22 condition of the Receivership Estate, the Receiver evaluated the real estate holdings of
23 the Receivership Estate and undertook a comprehensive effort to solicit interest from
24 potential purchasers for the Properties.

25 6. The Receiver’s entry into the M&M Agreement, and the underlying
26 retention of Marcus & Millichap, as a disinterested professional, is in the best interest of
27 the Receivership Estate and its creditors.

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

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

3 8. The Receiver has demonstrated a sufficient basis and compelling
4 circumstances requiring the entry of this Order and the proposed sale of the Properties in
5 accordance with the Sale Procedures, and such actions: (a) are appropriate exercises of
6 the Receiver's reasonable business judgment; (b) are in the best interest of the
7 Receivership Estate and its creditors; and (c) meet the requirements of and are consistent
8 with 28 U.S.C. §§ 2001 and 2002.

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

12 10. The Receiver may sell the Properties in accordance with the Sale
13 Procedures.

14 Accordingly,

15 **IT IS ORDERED** that the Motion (Doc. 147) is **GRANTED** as follows:

- 16 1. Any objections to the Motion concerning the Sale Procedures and relief
17 granted in this Order that have not been withdrawn, waived, resolved,
18 sustained, or settled, are overruled;
- 19 2. The M&M Agreement as set forth in Exhibit A to the Coxworth Declaration, is
20 approved,
- 21 3. The Sale Procedures, as set forth in Exhibit A to this Order, shall be conformed
22 hereto and are approved;
- 23 4. The Receiver may proceed to sell the Properties, in accordance with the Sale
24 Procedures;
- 25 5. The Receiver may proceed to sell the Properties free and clear of liens, claims,
26 encumbrances, and other interests at a public auction to be held on the
27 RealINSIGHT Marketplace Auction Platform at <https://rimarketplace.com> in
28 accordance with, and subject to, the Sale Procedures commencing on **June 24,**

1 **2024 at 12:00 p.m. (Eastern Standard Time)** and concluding on **June 26,**
2 **2024 at 12:00 p.m. (Eastern Standard Time)** (the “Auction”);

- 3 6. The Sale Hearing shall be held telephonically by the Court on **July 10, 2024 at**
4 **10:30 AM (Phoenix Time)**;
- 5 7. Any objection on any basis to the proposed sale of the Properties must be filed
6 in writing with the Court no later than **July 3, 2024 at 5:00 PM (Phoenix**
7 **Time)** (the “Objection Deadline”) and served on counsel to the Receiver,
8 Archer & Greiner, P.C., Attn: Allen G. Kadish and Harrison H.D. Breakstone,
9 1211 Avenue of the Americas, New York, New York 10036. Any reply must
10 be filed in writing with the Court no later than **July 8, 2024 at 5:00 PM**
11 **(Phoenix Time)**;
- 12 8. The notice of sale attached as Exhibit B hereto (the “Sale Notice”), shall be
13 conformed hereto and is approved;
- 14 9. The Receiver shall cause service of the Sale Notice, within five (5) business
15 days of entry of this Order, by United States first class mail on: (a) all known
16 creditors of the Receivership Estate at the address set forth in the Receivership
17 Entities’ books and records or as updated pursuant to a request by a creditor or
18 by returned mail from the post office with a forwarding address; (b) any party
19 known or reasonably believed to have asserted any Lien and Encumbrance or
20 other interest in the Properties; (c) all parties to pending litigation against ATA
21 Mercado and ATA Palencia (as of the date of entry of this Order); (d) any
22 party known or reasonably believed to have expressed an interest in acquiring
23 the Properties, including Good Harbor; (e) the Securities and Exchange
24 Commission, the United States Attorney for the Southern District of New
25 York, the Internal Revenue Service and all local governmental units; and (f)
26 such additional persons and entities deemed appropriate by the Receiver;
- 27 10. The Receiver shall cause the Sale Notice to be published in The St. Augustine
28 Record once a week for at least four (4) weeks prior to the Auction, which

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publication shall be deemed due, timely, good, and sufficient notice of the entry of this Order, the Sale Order and all proceedings to be held in accordance with this Order;

11. Any person or entity seeking to participate as a bidder at the Auction shall comply with the Sale Procedures;

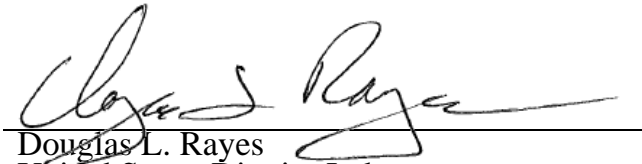
12. Each bidder participating at the Auction will be required to confirm that it has not engaged in any collusion with respect to the bidding on or sale of the Properties;

13. Under no circumstances shall any bidder or prospective purchaser for the Properties have any claims at law or equity against the Receiver, his professionals or the Receivership Estate arising out of their participation or involvement in the Auction or the purchase and sale of the Properties;

14. This Order shall become effective immediately upon its entry;

15. This Court shall retain jurisdiction over any matters or disputes arising from or related to this Order or its enforcement.

Dated this 23rd day of May, 2024.



Douglas L. Rayes
United States District Judge

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EXHIBIT A

SALE PROCEDURES FOR:

- 1. MERCADO WALK LOCATED AT 155-167 PALENCIA VILLAGE DR. ST. AUGUSTINE, FLORIDA 32095, AND**
- 2. PLAZA PALENCIA LOCATED AT 7449 US HIGHWAY 1 N. ST. AUGUSTINE, FLORIDA 32095**

Securities and Exchange Commission v. Larmore, *et al.*
 Case No. 23-CV-02470-DLR
 United States District Court for the District of Arizona (the “Court”)

Allen D. Applbaum, as receiver (the “Receiver”) for ArciTerra Companies, LLC and related entities, submits the following sale and auction procedures (the “Sale Procedures”) for the sale of Mercado Walk and Plaza Palencia, two multi-use retail centers located in St. Augustine, Florida (together, the “Properties”), and owned by Receivership Entities, ATA Mercado St. Augustine FL, LLC (“ATA Mercado”) and ATA Palencia St. Augustine FL, LLC (“ATA Palencia”). The sale of the Properties shall be free and clear of all liens, claims, encumbrances and interests, and subject to the below auction procedures approved by the Court:

a. Auction Place and Time. There will be a public Auction to submit and accept bids for the Properties held on the RealINSIGHT Marketplace Auction Platform at <https://rimarketplace.com> (the “Marketplace Auction Platform”) commencing on June 24, 2024, beginning at 12:00 p.m. (Eastern Standard Time) and concluding on June 26, 2024 at 12:00 p.m. (Eastern Standard Time).

b. Qualification to Bid. Any bidder interested in purchasing either or both of the Properties must register to bid with the Marketplace Auction Platform at <https://rimarketplace.com> and submit financial information, including proof of funds. Bidders who register and provide sufficient information and proof of funds will receive an email confirming eligibility to bid.

c. Bidding at Auction and Selection of Successful Bidders. Bidders may bid on either or both Properties and, upon the conclusion of the Auction and attaining the Reserve Price, the Receiver will accept the bids from the bidders who submit the highest and best offer for the Properties (the “Successful Bidders”).

d. Execution of the Purchase Agreement. The Successful Bidders will be required to execute the Purchase Agreement, substantially in the form approved by the Court, within two hours of being selected as the Successful Bidders.

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2 e. Submission of Non-Refundable Deposit. No later than twenty-four hours
3 after conclusion of the Auction, the Successful Bidders shall submit a non-refundable
4 deposit of ten percent (10%) of the purchase price (the “Deposit”) to be held in escrow
pending entry of the Order of the Court approving the sale and closing on the sale.

5 f. Platform Fee. The Successful Bidders shall be obligated to pay the
6 Platform Fee due to Marketplace Auction Platform upon closing of the sales.

7 g. Due Diligence. All bidders who execute confidentiality agreements will be
8 permitted to conduct due diligence on the Properties, including via a review of the due
9 diligence materials prepared by Marcus & Millichap, prior to the Auction. Due diligence
materials will be made available by the Marketplace Auction Platform.

10 h. No Contingencies. The sale to the Successful Bidders shall not be subject
11 to any contingencies, including without limitation, for financing, due diligence, or
12 inspection.

13 i. As Is/Where Is Purchase. The sale to the Successful Bidders shall be on an
14 “AS-IS, WHERE-IS” basis, with no representations or warranties made by the Receiver,
his professionals, or the Receivership Entities.

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EXHIBIT B

SALE NOTICE

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

Securities and Exchange Commission,

Plaintiff,

v.

Jonathan Larmore; ArciTerra Companies,
LLC; ArciTerra Note Advisors II, LLC;
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:

**MERCADO WALK, 155-167
PALENCIA VILLAGE DR.,
FLORIDA 32095, AND**

**PLAZA PALENCIA, 7449 US
HIGHWAY 1 N. ST. AUGUSTINE,
ST. AUGUSTINE, FLORIDA 32095**

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 ATA Mercado St. Augustine FL, LLC (“ATA Mercado”) and ATA Palencia St. Augustine FL, LLC (“ATA Palencia”), intends to sell, through his broker, Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”), two multi-use retail centers located in St. Augustine, Florida, and owned by ATA Mercado and ATA Palencia (together, the “Properties”), free and clear of all liens, claims, interests and encumbrances (the “Sale”).

Pursuant to the Motion for Entry of an Orders: (A) approving (i) the Receiver’s engagement and compensation of Marcus & Millichap as broker for the sale of the

1 Properties, and (ii) the proposed sale and auction procedures for the sale of the Properties
2 (the “Sale Procedures”), including the scheduling of an Auction and Sale Hearing to
3 consider the sale of the Properties; (B) approving the sale of the Properties to the bidders
4 who submit the highest and best offers at a public auction to be conducted on
5 RealINSIGHT Marketplace Auction Platform at <https://rimarketplace.com> (the
6 “Marketplace Auction Platform”), free and clear of all liens, claims, encumbrances and
interests; and (C) granting related relief (the “Sale Motion”), the Receiver is soliciting
higher and better offers for the Properties.

7 The Receiver is soliciting higher and better offers by means of an Auction to be
8 conducted on the Marketplace Auction Platform, which shall be governed by the terms
9 and conditions of the order establishing sale and auction procedures (the “Sale
Procedures Order”) approved by the Court.

10 The Sale Motion and the Sale Procedures Order are on file with the United States
11 District Court for the District of Arizona, Sandra Day O’Connor U.S. Courthouse, 401
12 W. Washington St., Suite 130, SPC 1, Phoenix, Arizona 85003-2118 (the “Court”), and
13 are available for review during regular business hours. **Copies of the Sale Motion, the
14 Sale Procedures Order, and the proposed Purchase Agreement to be executed by
the Successful Bidders are also available upon request from the undersigned or by
visiting the Receiver’s website at www.arciterrareceivership.com.**

15 OBJECTIONS, if any, to the relief requested in the Sale Motion or to final
16 approval of the proposed Sale of the Properties must be filed in writing with the Clerk of
17 the Court on or before July 3, 2024 at 5:00 p.m., Phoenix Time (the “Objection
18 Deadline”). A copy of the objection must also be served on all of the following so as to
19 be received by the Objection Deadline: counsel to the Receiver, Archer & Greiner, P.C.,
20 Attn: Allen G. Kadish and Harrison H.D. Breakstone, 1211 Avenue of the Americas,
New York, New York 10036.

21 **Through this Notice, HIGHER AND BETTER OFFERS to purchase the
22 Properties are hereby solicited.** The Auction will be held on the Marketplace Auction
23 Platform beginning on June 24, 2024 at 12:00 p.m. (EST) and concluding on June 26,
2024 at 12:00 p.m. (EST). Instructions for attending the Auction are available at: at
<https://rimarketplace.com>.

24 A FINAL HEARING on the Sale Motion will take place telephonically on July 10,
25 2024 at 10:30 a.m., Phoenix Time, before the Honorable Douglas L. Rayes.

26 Please be advised that any of the foregoing dates may be changed by the Court
27 without further notice.
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1 If you have any questions regarding or would like copies of materials relating to
2 the information in this Notice, please make such request in writing to Counsel for the
3 Receiver, Archer & Greiner, P.C., 1211 Avenue of the Americas, New York, New York
4 10036 Attn: Allen G. Kadish and Harrison H.D. Breakstone.
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