

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2021-015089-CA-01

SECTION: CA43

JUDGE: Michael Hanzman

In Re:

Champlain Towers South Collapse Litigation

**RECEIVER'S MOTION FOR ENTRY OF AN ORDER
APPROVING CLARIFIED PROTOCOL FOR RESOLUTION
OF COMPETING CLAIMS FOR PERSONAL PROPERTY ITEMS**

Michael I. Goldberg (the "Receiver"), pursuant to Rule 4 of the Complex Business Litigation Rules, files this Motion For Entry of an Order Approving Clarified Protocol for Resolution of Competing Claims for Personal Property Items. In support of this Motion, the Receiver states as follows:

1. On October 1, 2021, this Court entered an Order Approving Protocol for Processing and Returning Personal Property Items. In pertinent part, the Order provides:

At the expiration of the 30 day period, with respect to all personal property items for which more than one party has made a claim, the Receiver will notify the competing claimants. Each party making a claim to such items shall provide the Receiver with evidence establishing proof of his/her entitlement to the respective personal property item(s). If the Receiver is unable to resolve a disputed claim, the Receiver will request that the Court hold a hearing to determine the proper claimant and authorize the Receiver to release the personal property items.

2. Following the close of the claims process and after reconciling claims data, numerous personal property items have been identified as having competing claims.¹

¹ Presently, some of the competing claims are based on draft, unfinalized claims. As set forth in the Court's December 5, 2022 Order, claimants have until January 11, 2023 to finalize their claims or they become abandoned. To the extent draft claims do not become finalized by January 11, 2023, the draft claim will not create a conflict. Therefore, the Receiver will make

3. Based on the protocol set forth in the October 1, 2021 Order, the Receiver will notify competing claimants of the item(s) they have claimed for which there is/are competing claims. The notification will advise the competing claimants that they will need to submit to the Receiver whatever evidence (i.e., photographs, receipts, invoices or other documentation) they have supporting proof of entitlement and/or a written explanation supporting claimant(s)' proof of entitlement for each contested item listed in the notification. Claimants will need to attest to the truth of the information provided. They will have two weeks from the date of the notification (such date certain will be specifically stated in the notification) to provide the Receiver the information, unless otherwise extended by the Receiver for good cause.

4. Following receipt of the evidence and written explanations, the Receiver will review such information and issue a written report and recommendation as to which claimant the property should be released. Claimants will have two weeks to object to the Receiver's report and recommendation via a written objection explaining the basis for the objection, emailed to the Receiver at ctsreceivership@akerman.com.

5. For every personal property item for which the Receiver does not receive any objections by the deadline, the report and recommendation for each such personal property item will become final. The Receiver will then notify the claimant(s) of the final determination, and Miami-Dade County will thereafter be authorized to release those identified personal property items to the identified claimant(s).

6. Upon receiving any objection(s), the Receiver may reconsider the competing claims. Claimants may submit additional evidence to the Receiver by a specified deadline.

the final determination of which items have competing claims following the January 11, 2023 deadline.

7. If the Receiver deems it necessary, he may interview the competing claimants and seek such other additional information as he deems necessary to assist in making a determination as to the proper claimant for a particular personal property item.

8. If the Receiver is unable to resolve a disputed claim after the first two proceedings, the Receiver will file his report and recommendation with the Court, and the Court may adopt the Receiver's report and recommendation or conduct further hearings if he deems it necessary.

Receiver's Authority

9. Florida trial courts have broad and inherent discretion to appoint a receiver and establish the receiver's duties. *See Granada Lakes Villas Condo. Ass'n v. Metro-Dade Invs. Co.*, 125 So. 3d 756, 758 (Fla. 2013); *see also Ross-Williams v. Leali*, 337 So. 3d 523, 526 (Fla. 3d DCA 2022). Accordingly, the court may use its discretion during the pendency of the action to "make such further orders as are necessary and proper for the protection of the property and interests concerned." *Puma Enters. Corp. v. Vitale*, 566 So. 2d 1343, 1345 (Fla. 3d DCA 1990) (quoting *Abramson v. Brant*, 141 So. 2d 777, 778 (Fla. 3d DCA), *cert. denied*, 146 So. 2d 752 (Fla. 1962)).

10. Because the trial court possesses such wide discretion, it has the authority "to classify claims sensibly in receivership proceedings." *S.E.C. v. Enter. Trust Co.*, 559 F.3d 649, 652 (7th Cir. 2009); *S.E.C. v. Basic Energy & Affiliated Res., Inc.*, 273 F.3d 657, 670 (6th Cir. 2001) ("Thus, the district court used its discretion in a logical way to divide the money, and therefore, did not abuse its discretion in approving the plan.").

11. The trial court's broad discretion stems from the "inherent powers of an equity court to fashion relief." *SEC v. Elliott*, 953 F.2d 1560, 1560 (11th Cir. 1992). As such, in granting relief, it is appropriate for the trial court to use summary proceedings. *Id.* The court's

use of summary proceedings in the course of overseeing a receivership must comply with due process. *Basic Energy*, 273 F.3d at 668. A trial court's use of summary proceedings complies with due process if the parties are permitted "to present evidence when the facts are in dispute and to make arguments regarding those facts." *Elliott*, 953 F.2d at 1567.

12. Summary proceedings allow for efficient adjudication of claims without overburdening the court. They both reduce the time necessary to settle disputes and decrease litigation costs. *Id.* 953 F.2d at 1566.

WHEREFORE, the Receiver respectfully requests that the Court enter an Order approving the clarified protocol set forth herein for processing competing personal property claims.

Date: January 2, 2023

Respectfully submitted,

/s/ Michael I. Goldberg

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 2, 2023, a copy of the foregoing was electronically filed with the Clerk of Court by using the Florida Courts E-Filing Portal and a copy of same was furnished to all counsel of record through the Florida Court's E-Filing Portal.

/s/ Michael I. Goldberg

Michael I. Goldberg, Esq.