

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

COMMODITY FUTURES TRADING
COMMISSION,

Case No. 8:19-CV-886-T-33SPF

Plaintiff,

v.

OASIS INTERNATIONAL GROUP,
LIMITED; OASIS MANAGEMENT, LLC;
SATELLITE HOLDINGS COMPANY;
MICHAEL J DACORTA; JOSEPH S.
ANILE, II.; RAYMOND P MONTIE III;
FRANCISCO "FRANK" L. DURAN; and
JOHN J. HAAS,

Defendants;

and

MAINSTREAM FUND SERVICES, INC.;
BOWLING GREEN CAPITAL
MANAGEMENT LLC; LAGOON
INVESTMENTS, INC.; ROAR OF THE
LION FITNESS, LLC; 444 GULF OF
MEXICO DRIVE, LLC; 4064 FOUNDERS
CLUB DRIVE, LLC; 6922 LACANTERA
CIRCLE, LLC; 13318 LOST KEY PLACE,
LLC; and 4 OAKS LLC,

Relief Defendants.

THE RECEIVER'S LIQUIDATION PLAN

Burton W. Wiand, as receiver over the assets of the above-captioned defendants and relief defendants (the "**Receiver**" and "**Receivership Estate**"), submits this Liquidation Plan

as required by paragraphs 51 and 52 of the Order Appointing Receiver And Staying Litigation, dated April 30, 2019 (Doc. 44) (the “**Order Appointing Receiver**”).

BACKGROUND

At the request of the Commodity Futures Trading Commission (“**CFTC**”), the Court appointed the Receiver on April 15, 2019 and directed him, in relevant part, to “[t]ake exclusive custody, control, and possession of the Receivership Estate,” which includes “all the funds, properties, premises, accounts, income, now or hereafter due or owing to the Receivership Defendants, and other assets directly or indirectly owned, beneficially or otherwise, by the Receivership Defendants.” *See* Order Granting Plaintiff’s Motion For An Ex Parte Statutory Restraining Order, Appointment Of A Temporary Receiver, And Other Equitable Relief, dated April 15, 2019 (Doc. 7 at p. 14, ¶ 32 & p. 15, ¶ 30.b.) (the “**TRO**” and, collectively with the Order Appointing Receiver, the “**Receivership Orders**”).

In coordination with the CFTC and law enforcement, on April 18, 2019, the Receiver began to effectuate his mandate to seize and secure the Receivership Estate. The Receiver will file a detailed report of his efforts in accordance with the requirements of paragraph 30.m. of the TRO and paragraphs 53 and 54 of the Order Appointing Receiver, but for purposes of this Liquidation Plan, the Receiver has already determined the Receivership Estate contains valuable non-cash assets, including real estate, luxury automobiles, gold coins, and silver bars. It might also contain valuable personal property, including watches, jewelry, sports memorabilia, and art, but the Receiver is still evaluating those matters.

As set forth below, this Liquidation Plan explains the general procedures pursuant to which the Receiver intends to sell, transfer, or otherwise dispose of the assets in the

Receivership Estate. At the appropriate time, the Receiver will also seek Court approval of his proposed disposition of specific assets, as required by this Liquidation Plan, the Receivership Orders, and pertinent law.

I. COOPERATION WITH THE DEPARTMENT OF JUSTICE, THE UNITED STATES MARSHALS SERVICE, AND OTHER LAW ENFORCEMENT

On April 17, 2019, the Department of Justice (“DOJ”), through the United States Attorney’s Office for the Middle District of Florida, filed a civil forfeiture action against at least eight real properties that are part of the Receivership Estate pursuant to the Receivership Orders. *See United States of America v. 13318 Lost Key Place, Lakewood Ranch, Florida et al.*, Case No. 8:19-cv-00908 (M.D. Fla.) (Doc. 1 ¶ 1) (the “**Forfeiture Action**”). On April 18, 2019, federal agents seized assets owned, directly or indirectly, by certain defendants and relief defendants – and thus part of the Receivership Estate – pursuant to search warrants or similar writs. At minimum, those assets include cash, gold coins, silver bars, and several luxury automobiles. The Receiver is cooperating with the CFTC, DOJ, United States Marshals Service (“USMS”), and other members of law enforcement to liquidate those assets for the benefit of the Receivership Estate. The Receiver anticipates seeking Court approval of any agreement between the Receiver and the pertinent law enforcement agencies regarding the custody, management, and disposition of the assets.

II. SALES OF REAL PROPERTY PURSUANT TO 28 U.S.C. § 2001

As noted above, the Receivership Estate contains several parcels of real property, including single family residences, condominiums, and a waterfront office building. Paragraph 38 of the Order Appointing Receiver requires the Receiver to seek the Court’s approval of any sale of real property:

Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property in the Receivership Estate.

Doc. 44 ¶ 38.

Public and private sales of real property in a receivership are governed by 28 U.S.C. § 2001 (“**Section 2001**”). The procedures applicable to public sales – *i.e.*, auctions – are set forth in Section 2001(a):

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

Property in the possession of a receiver or receivers appointed by one or more district courts shall be sold at public sale in the district wherein any such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located, or on the premises or some parcel thereof located in such county, parish, or city, as such court directs, unless the court orders the sale of the property or one or more parcels thereof in one or more ancillary districts.

28 U.S.C. § 2001(a). Public sales also generally require compliance with the statutory notice requirements set forth in 28 U.S.C. § 2002:

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

If such realty is situated in more than one county, state, district or circuit, such notice shall be published in one or more of the counties, states, or districts wherein it is situated, as the court directs. The notice shall be substantially in such form and contain such description of the property by reference or otherwise as the court approves. The court may direct that the publication be made in other newspapers.

28 U.S.C. § 2002.

The procedures applicable to private sales of receivership real estate are set forth in Section 2001(b):

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

28 U.S.C. § 2001(b). For purposes of this Liquidation Plan, the Receiver intends to comply with the statutory provisions, but under pertinent law, the Court has the authority to modify or waive the appraisal and publication requirements in Section 2001(b) should the circumstances warrant. If the Receiver deems such relief necessary with respect to a particular asset, he will seek the Court's authorization in connection with his motion to approve the sale of that asset.

Paragraph 37 of the Order Appointing Receiver provides that "the Receiver is authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard

to the realization of the true and proper value of such real property.” Doc. 44 ¶ 37. Pursuant to this authorization, the Receiver will generally take the following steps in connection with the sale of any real property:

- Determine whether a public or private sale is most appropriate, given the circumstances of the property and the pertinent real estate market;
- Engage a real estate agent, auction company, or other broker to develop a marketing plan and to offer the property for sale;
- List the property for sale on www.oasisreceivership.com;
- Review and negotiate offers to effectuate the sale in a commercially reasonable manner and in the best interests of the Receivership Estate;
- Enter into a purchase agreement with any successful buyer;
- Determine whether the circumstances warrant modification or waiver of any statutory provisions, and if so, seek such relief from the Court;
- Move the Court to approve the purchase agreement and proposed sale; and
- After obtaining the Court’s approval, close the transaction and transfer the net sale proceeds to the appropriate bank account.

In the Receiver’s experience, private sales typically generate a greater benefit to the Receivership Estate than public sales, but as noted above, the Receiver will consider both options in light of the unique circumstances of each property. If a property is encumbered by a mortgage, lien, or other impediment to sale, the Receiver might ask the Court to transfer the encumbrance to the proceeds of the sale and to resolve the encumbrance in connection with any Court-approved claims process or other litigation. The Court has that authority under relevant legal and equitable principles, but any determination regarding the necessity of invoking that authority would be premature.

III. SALES OF PERSONAL PROPERTY PURSUANT TO 28 U.S.C. § 2004

As noted above, the Receivership Estate contains luxury automobiles, gold coins, silver bars, and might also contain jewelry, sports memorabilia, art, and other valuables. The Order Appointing Receiver authorizes the Receiver to sell such personal property (as opposed to real property) without obtaining leave of Court:

The Receiver may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.

Doc. 44 ¶ 36. As a matter of prudence and transparency, however, the Receiver will only exercise that authority in connection with items valued individually at \$10,000 or less. For items valued above that amount – *e.g.*, the luxury automobiles – the Receiver intends to seek Court approval pursuant to 28 U.S.C. § 2004 (“**Section 2004**”), which provides: “Any personalty sold under any order or decree of any court of the United States shall be sold in accordance with section 2001 of this title, unless the court orders otherwise.”

In the Receiver’s experience, personal property tends to fall into three general categories. The first category relates to specialized or luxury items like sports cars, certain jewelry, original artwork, or antiques and collectibles. The Receiver has typically used high-end brokers or nationally-recognized auction houses to sell such items. The second category relates to items that are valuable but perhaps not unique and are thus appropriate for sale using eBay or local consignment shops. The third category relates to items like office furniture, phones, and old computers and other electronics that typically have little resale

value. The methods the Receiver uses to liquidate such items vary depending on their nature and quantity but could include consignment, bulk auction, or even donation.

Section 2004 requires the Receiver to follow the procedures set forth in Section 2001 “unless the Court orders otherwise.” 28 U.S.C. § 2004. The Court has already “ordered otherwise” in paragraph 36 of the Order Appointing Receiver, but as explained above, the Receiver only intends to invoke that authority in connection with items valued individually at less than \$10,000. The Receiver nevertheless reserves the right to move the Court to modify or waive the provisions of Section 2001 should circumstances warrant. For example, the marginal cost/benefit of obtaining three appraisals or publishing a notice of sale in multiple papers for multiple weeks might not warrant strict compliance with the statute. The Receiver will address these issues on an individualized basis as they arise.

IV. DONATION OR ABANDONMENT OF ASSETS

The Receiver is mindful of the directives in the Receivership Orders and elsewhere to manage the Receivership Estate in an efficient and cost-effective matter. In some cases, assets in the Receivership Estate could have little to no commercial value, or the cost of maintaining and securing the assets could exceed any amounts reasonably recoverable from the sale of the assets. In such cases, the Receiver will likely abandon the assets or donate them to an appropriate charity, pursuant to the authority set forth in paragraph 36 of the Order Appointing Receiver. The Receiver might also seek the Court’s approval to abandon or donate such assets if the circumstances warrant.

CONCLUSION

This Liquidation Plan describes the general procedures the Receiver intends to employ to sell or otherwise dispose of the assets in the Receivership Estate. The Receiver will provide more details on those assets in his quarterly reports and in subsequent motions seeking the approval of specific transactions. The Receiver encourages individuals interested in purchasing any such assets to monitor www.oasisreceivership.com.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 7, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Respectfully submitted,

/s/ Jared J. Perez

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