

Filed in The District Court
of Travis County, Texas
FEB 24 2023 JC
At 9:45 A.M.
Velva L. Price, District Clerk

CAUSE NO. D-1-GN-22-001980

STACY R. SCHIFFMAN, *et al*,
Plaintiff,

v.

NELSON PARTNERS, LLC, NELSON
BROTHERS PROPERTY
MANAGEMENT INC. D/B/A NELSON
PARTNERS PROPERTY
MANAGEMENT, INC., NP EQUITY,
LLC, AND PATRICK NELSON,
Defendants,

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

98th JUDICIAL DISTRICT

**AGREED ORDER CONCERNING PLAN ADMINISTRATOR’S MOTION FOR
CONTEMPT AND SANCTIONS, APPLICATION FOR TEMPORARY INJUNCTION,
AND NELSON PARTIES’ OBJECTIONS TO PLAN ADMINISTRATOR’S LEGAL
FEES AND EXPENSES**

On this day, the Court considered the Plan Administrator, Gregory S. Milligan’s (“Plan Administrator”) Motion for Contempt and for Sanctions, including all amendments and supplements thereto (collectively, the “Motion”) and the Verified Application for Temporary Restraining Order and Motion for Expedited Discovery (the “Application”).

On April 25, 2022, the Court entered an order preliminarily approving the Stipulation and Plan of Liquidation, dated April 19, 2022 (the “Plan”) and appointing the Administrator.

On July 21, 2022, the Court entered the final order approving the Plan.

Based on the following agreement of the parties, the Court ORDERS as follows:

1. Appointment of a Chief Strategy Officer. The Nelson Parties¹ agree to appoint a chief strategy officer (“CSO”) as an officer of both Nelson Partners, LLC and Nelson Brothers Property Management, Inc. d/b/a Nelson Partners Property Management, LLC (together, the “CSO Entities”) who is an independent,

¹ “Nelson Parties” means collectively, Nelson Partners, LLC, Nelson Brothers Property Management, Inc. d/b/a Nelson Partners Property Management, Inc., NP Skyloft Equity, LLC, and Patrick Nelson.

disinterested² fiduciary. The CSO must be approved by the Plan Administrator and the Intervenors, and upon an agreement, the parties shall submit a separate agreed order to the court designating the CSO (the “CSO Order”) and submitting the CSO to the Court’s jurisdiction. The parties must file an agreed CSO Order designating and appointing the CSO and a designated arbitrator no later than March 10, 2023. The parties agree to use an arbitrator to resolve any disputes between the appointed CSO and Patrick Nelson.

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- a. Roles of the CSO. The CSO will have the following tasks and authorities:
 - i. Joint collective authority with Patrick Nelson over all the Nelson Parties’ cash and distributions, except Patrick Nelson, individually;
 - ii. create a proposed amended plan of liquidation in cooperation and coordination with Patrick Nelson to propose to the Plan Administrator and Intervenors that funds the existing obligations under the Plan;
 - iii. full access to the Nelson Parties’ business books and records, including all employees’ records, and transparency regarding ongoing transaction negotiations; and
 - iv. The CSO as an officer of the CSO Entities, shall have access to privileged information from the Nelson Partners’ inside and outside counsel, but not as to Pat Nelson’s separate, individual personal counsel.
- b. Bankruptcy. The CSO has the authority to approve any bankruptcy filing of the CSO Entities if Patrick Nelson also consents to a bankruptcy filing. Both the CSO and Patrick Nelson must agree for any Nelson Parties to file bankruptcy. The CSO has no authority over whether Patrick Nelson files a personal bankruptcy.
- c. Fees of the CSO. The CSO Entities must pay the CSO pursuant to the terms of the engagement between the CSO and the CSO Entities, and to the extent the CSO Entities do not pay the CSO’s reasonable and necessary invoices, such professional fees and expenses of the CSO shall taxed as costs of court against the Nelson Parties.
- d. Term of the CSO. The CSO’s initial appointment shall last 90 days and will automatically renew for additional 90-day periods if no party files an objection with the Court to the renewal of the CSO. The CSO’s initial term must begin no later than 30 days after entry of this Agreed Order.
- e. In re 5280 Auraria LLC Bankruptcy. Notwithstanding the powers granted to the CSO herein, the CSO’s powers to approve asset disposition shall not extend to the pending Chapter 11 case for *In re 5280 Auraria LLC*, Case

² The term “disinterested” has the same meaning as provided by 11 U.S.C. 101(14).

No. 22-12049-MER pending in the United States Bankruptcy Court for the District of Colorado. In respect of that Chapter 11 case and the assets of the estate, pre-existing corporate governance shall not be changed.

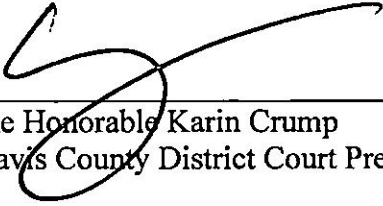
3. The Motion. The Plan Administrator's Motion is continued pursuant to the agreement of the parties based on the following terms:
 - a. Payment. \$500,000 shall be paid to the Plan Administrator's designated accounts from NP Sol y Luna Leaseco, LLC. From the \$500,000 deposited with the Plan Administrator, the Plan Administrator shall distribute \$250,000 to the Skyloft DST investors which shall count as a credit against the Liquidation Proceeds pursuant to the distributions procedures approved by the Court on February 24, 2023. The remaining \$250,000 shall be used to pay or otherwise added to the Plan Administrator's reserve for his fees and expenses and the fees and expenses of his retained professionals. The Nelson Parties agree to render the \$500,000 payment to the Plan Administrator on or before March 10, 2023.
 - b. Liens and Lis Pendens. Nelson Partners, LLC agrees to make best efforts to secure permission from the first lienholder to grant a lien on its headquarters location of 180 Avenida La Pata, San Clemente, CA 92673 in favor of Gregory S. Milligan solely in his capacity of the Plan Administrator. Subject to approval of the applicable family court, Patrick Nelson agrees to entry of a lis pendens on his primary residence and the residential rental property.
 - c. Contempt Claims Related to Sol y Luna Sale. The parties agree to postpone the hearing on the Motion on an expedited basis. Patrick Nelson agrees and consents to extension of the show cause order and subpoena for his personal appearance before the Court to the date that the Court resets any hearing on the Motion, and no further service is required.
4. Interest on Outstanding Liquidation Proceeds Due. The unpaid and past due Liquidation Proceeds in the amount of \$20,682,323.12 (as this amount may be adjusted pursuant to the Plan) due from the first deadline required under the Plan will accrue post-judgment interest at a rate of 5.50% beginning January 26, 2023 until the full amount with accrued interest is paid in full or addressed pursuant to any amendment to the Plan.
5. Temporary Restraining Order. The Temporary Restraining Order dated November 18, 2022³ is hereby extended by agreement of the parties through March 8, 2023 at 5:00 p.m. CST.

³ The November 18, 2022 Temporary Restraining Order was continued by prior agreed orders entered by the Court on November 29, 2022, December 22, 2022, and January 12, 2023.

6. December 19, 2022 Rule 11 Agreement. The Nelson Parties reaffirm and extend the December 19, 2022 Rule 11 agreement that the parties entered into the Court's record except for the time for compliance is revised in the following sentence. Patrick Nelson agrees to submit for himself and all Nelson Parties completed schedules of assets, liabilities and statement of financial affairs, in the official bankruptcy form, signed under penalty of perjury to the Plan Administrator, within 45 days from entry of this Agreed Order or from 30 days following appointment of the CSO, whichever is earlier. The remaining agreements in the December 19, 2022 Rule 11 agreement remain in effect.
7. Plan Administrator's Fees Allowed. The Nelson Parties hereby withdraw all prior objections to the Plan Administrator's legal fees and expenses.
8. Plan. The parties agree the Plan and the April 25, 2022 Agreed Injunction remain in effect.
9. Emergency Relief. The parties agree that each party may seek emergency relief from the Court regarding compliance with this Agreed Order.
10. Cooperation. The Plan Administrator and Intervenors agree to cooperate with the Nelson Parties regarding a press release and the parties' efforts to reach a resolution.
11. Administrator Authority. The Administrator is empowered to take all actions and execute all agreements, instruments and other documents necessary to perform under this Agreed Order.
12. Retention of Jurisdiction. To the fullest extent permitted by law, the Court hereby retains exclusive jurisdiction over the Plan, this Agreed Order, and the CSO Order.
13. Potential Motion Hearing. If the parties do not file a written notice with the Court by March 6, 2023 that they have successfully agreed upon the identity of a CSO and arbitrator, this Agreed Order shall be vacated and of no force and effect, except for the provisions of paragraph 5 above, and the Motion shall proceed to hearing on March 8, 2023 at 9:00 a.m. CST. Patrick Nelson agrees and consents to extension of the show cause order and subpoena for his personal appearance before the Court to March 8, 2023 for the hearing on the Motion, and no further service is required.

SO ORDERED.

Dated: 2/24/2023

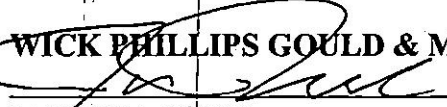

The Honorable Karin Crump
Travis County District Court Presiding

AGREED IN SUBSTANCE AND FORM BY:

**AGREED ORDER CONCERNING PLAN ADMINISTRATOR'S MOTION FOR
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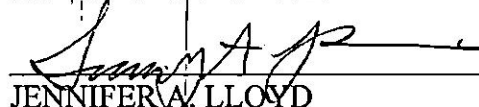
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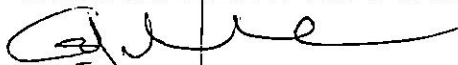


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individually and derivatively on behalf of NP SKYLOFT DST**

AND

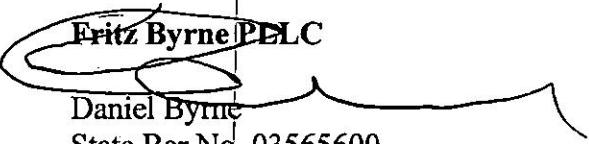
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