

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
SOUTHERN DIVISION

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

~~PROPOSED~~ ORDER GRANTING MOTION FOR ORDER APPROVING AND
CONFIRMING SALE OF REAL PROPERTY COMMONLY KNOWN AS 104 KINGS
PLACE, NEWPORT BEACH, CALIFORNIA AND APPROVING PUBLICATION AND
OVERBID PROCEDURES

The Motion for Order Approving and Confirming Sale of Real Property Commonly Known as 104 Kings Place, Newport Beach, California and Approving Publication and Overbid Procedures (“Motion”) was brought by receiver, Marc-Philip Ferzan of Ankura Consulting Group, LLC (“Receiver”). The Court, having read and considered the Motion together with the Declaration of Kenton Johnson (“Johnson Declaration”) and all other evidence filed in support of the Motion, and all papers filed in opposition to the Motion, if any, due and proper notice of the Motion having been given to the parties and other parties in interest, and good cause appearing therefore, it is

ORDERED, ADJUDGED AND DECREED:

1. The Motion shall be and is hereby granted in its entirety.
2. The Receiver is authorized to sell the real property commonly known as 104 Kings Place, Newport Beach, California (“Property”), Assessor’s Parcel No. 049-202-15, and legally described as:

Lot 5 of Block E, Tract No. 1219, in the City of Newport Beach, County of Orange, State of California, as per Map recorded in Book 38, Pages 26

and 27 inclusive of Miscellaneous Maps in the Office of the County Recorder of said Orange County.

and discharge the proceeds in accordance with applicable law and the orders of this Court, including without limitation this Order. The sale of this Property is hereby confirmed under Title 28 U.S.C. § 2001(b).

3. The Receiver is authorized to complete the sale of the Property on an “as is” basis as more fully described in the sale contract documents by private sale to either (a) Oneofour NB LLC, assignee of Francis Tran (“Proposed Buyer”), an arm’s length buyer, at a purchase price of \$13,830,000 pursuant to the California Residential Purchase Agreement and Joint Escrow Instructions dated August 15, 2021 and related documents; Seller Multiple Counter Offer No. 1, comprised of the Seller’s Addenda No. 1 dated August 24, 2021 which includes the Addendum No. 1 to Seller’s Multiple Counter Offer 1 Dated August 24, 2021, “AS-IS” Purchase addendum and Additional Terms addendum; Buyer Counteroffer No. 1 dated August 30, 2021; Seller Multiple Counter Offer No. 2 dated September 1, 2021; Buyer Counteroffer No. 2 dated September 3, 2021; Request for Repair No. 1 dated October 4, 2021; and Contingency Removal No. 2 dated October 4, 2021 (collectively, the “Proposed Purchase Agreement”), a copy of which is attached as Exhibit 1 to the Johnson Declaration; or (b) to such higher qualified overbidder who hereafter submits the highest qualified overbid at a subsequent overbid session to be conducted under the terms and conditions more fully set forth in this Order. The sale of the Property is hereby authorized subject to the following overbid procedures, terms and conditions:

A. The overbid session shall be conducted within 25 days of the date of entry of this Order. The overbid session shall be conducted at the offices of Villa Real Estate, 136 Rochester Street, Costa Mesa, California 92627.

B. The Receiver shall cause to be published a notice of the proposed sale of the Property to a qualified bidder at the overbid session, which notice shall state the date, time and place of the overbid session, the requirement for pre-qualification by overbidders and the terms and conditions of the overbidding and sale of the Property, as described below (“Overbid Notice”). The Receiver shall cause the Overbid Notice to be published in the Orange County Register two times prior to the date of the overbid session, with the first publication to be at least ten days prior to the date of the overbid session.

C. Any interested party wishing to overbid at the overbid session shall be required to pre-qualify with the Receiver not less than four business days before the overbid session by delivering to the Receiver’s counsel’s office located at 2029 Century Park East, Suite 300, Los Angeles, California 90067, to the attention of Gary Owen Caris: (a) notice in writing of the prospective overbidder’s intent to overbid; (b) written verification from a financial institution demonstrating to the Receiver’s satisfaction, in its sole and absolute opinion and judgment, the prospective overbidder’s ability to complete and close a purchase of the Property through sufficient funds and/or credit facilities within 20 days of the overbid session; and (c) a cashier’s check in the sum of \$435,000 payable to “Ecological Fox LLC et al. Receivership QSF,” which cashier’s check shall become nonrefundable upon acceptance of the overbidder’s overbid at the conclusion of the overbid session.

D. Overbidders shall be deemed to have completed all inspections of the Property and shall be deemed to have waived and/or removed all contingencies in favor of the Proposed Buyer under the Proposed Purchase Agreement, including without limitation any contingency pertaining to inspection of title and any financing contingency, and will be required to complete a cash purchase of the Property and close escrow for the purchase of the Property within 20 days of the date of the overbid session, subject to any waiting period imposed by the title

company as a requirement of its issuance of a policy of title insurance. The successful overbidder shall be required to execute a purchase agreement for the Property substantially in the form of the Proposed Purchase Agreement together with a waiver of all buyer contingencies promptly after conclusion of the overbid session and to otherwise generally perform in the manner provided in the Proposed Purchase Agreement.

E. The initial overbid shall be in the amount of \$14,230,000, representing an amount that is \$400,000 higher than the purchase price under the Proposed Purchase Agreement, and all subsequent overbids shall be in an amount at least \$100,000 higher than the preceding bid.

4. Pursuant to the Proposed Purchase Agreement and the Receiver's Residential Listing Agreement with its broker, a copy of which is attached as Exhibit 2 to the Johnson Declaration, a sales commission in the amount of 4% of the purchase price paid by the Proposed Buyer or, if a higher overbid is received and accepted at the overbid session, by the winning overbidder, shall be paid from the proceeds of the sale at close of escrow, and no other sales commission shall be paid from the proceeds of the sale or shall be paid by or be the responsibility of the Receiver under any circumstances.

5. The sale of the Property by private sale to the Proposed Buyer under the Proposed Purchase Agreement, or to the highest qualified overbidder at the overbid session conducted pursuant to the procedures set forth in this Order, shall be and is hereby approved and confirmed by this Order without further notice, hearing or additional order, and without the necessity of any subsequent motion for confirmation of the sale.

6. The Receiver is authorized to execute all documents and instruments necessary or appropriate to complete, implement, effectuate and close the sale of the Property to the Proposed Buyer or the highest qualified overbidder, including but not limited to the deed conveying title to the Property to the Proposed Buyer or the highest qualified overbidder, as provided in this Order.

7. The sale of the Property to the Proposed Buyer or to the highest qualified overbidder at the overbid session conducted pursuant to the procedures set forth in this Order is being sold in an “as is” condition, without any warranties or representations, with all faults known and unknown, as more particularly set forth in the Proposed Purchase Agreement.

8. A sale to the Proposed Buyer or any successful overbidder is an arm’s length transaction and the purchase price is fair and reasonable.

9. The Receiver is authorized to permit and/or cause to be paid from the proceeds of sale all ordinary and customary closing costs, all costs and expenses required to be paid pursuant to the terms of the Proposed Purchase Agreement by the Receiver from the proceeds of sale, the sales commission described above at paragraph 4, all real property tax liens and prorated real property taxes due up to the date of closing, the amounts owed under the promissory note secured by a first trust deed lien on the Property and the amounts owed under the promissory note secured by a second trust deed lien on the Property.

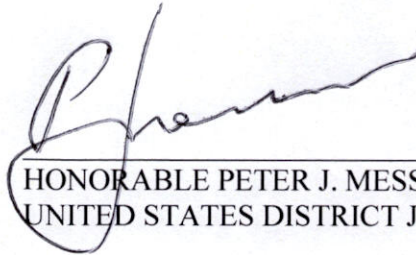
10. All net proceeds from the sale of the Property, after payment of the valid liens and encumbrances and costs of sale (“Net Proceeds”), as set forth above at paragraph 9, shall be paid to the Receiver on behalf of the receivership estate. The Receiver shall have the sole and exclusive right to all of the Net Proceeds from the sale, on behalf of the receivership estate, and the Net Proceeds shall become property of the receivership estate free and clear of all other liens and encumbrances, if any exist.

11. Any licensed title insurer, the Proposed Buyer and the successful overbidder at the overbid session conducted pursuant to the procedures set forth in this Order may rely on this Order

as authorizing the Receiver to transfer legal title to the Property free and clear of all liens and encumbrances.

Dated:

*November
23, 2021*



HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

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