

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
SOUTHERN DIVISION

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

**RECEIVER’S UPDATE FOLLOWING NOVEMBER 8, 2023 STATUS CONFERENCE
AND REQUEST FOR EXTENSION OF TIME**

At the November 8, 2023 telephone status conference, the Court directed the Receiver to provide analysis concerning certain proposals by the Federal Trade Commission (*see* Doc. 1479, “FTC Motion”) relating to the upcoming survey under the Court’s June 14, 2023 Order Implementing Next Phase of Consumer Redress Plan (Doc. 1446, “June Order”). The Court also provided guidance, particularly as to identifying potential legal representation for consumers seeking to acquire their lots under Option 1 of the survey and as to post-closing accommodations for those consumers who may be unable to timely obtain title. Following the hearing, the Receivership Team and the FTC have conferred and are working on a stipulated proposed order incorporating administration protocols that will further support consumer participation. While the Receivership Team is optimistic that a stipulated form of order will be forthcoming shortly for presentation to the Court, if necessary, the FTC indicated it is not opposed to the Receiver submitting its substantive response to the FTC Motion after the current deadline. Because collaborative efforts to develop the stipulated form of order are ongoing, the Receiver requests that his time for response to the FTC Motion be extended by 21 days from November 22, 2023 to December 13, 2023.

The Receiver is taking into account a multitude of considerations in working with the FTC on a responsive form of order. As the Court is aware, the Receiver has been preparing to initiate the lot choice survey process to afford victim consumers enumerated options in connection with qualifying residential lots and to pursue the marketing of the broader Sanctuary Belize and Kanantik land assets to prospective investors and developers. The lot marketing and sales activities that impacted victims in the Sanctuary Belize fraud scheme perpetrated by the defendants date back more than a decade. Plainly, unwitting consumers did not get what they were promised by the defendants – luxury amenities were never built, services are limited to those necessary to maintain basic operations in accordance with governing Court orders, and the future development of Sanctuary Belize and Kanantik remain unknown. Whether, to what extent, and under what terms and conditions the more than 18,000 acres of the receivership’s land assets will transfer to investors and/or developers will be subject to the RFP bidding process contemplated by the June Order. Accordingly, related risk disclosures, drafted in coordination with and approved by the FTC, will be included in the survey and associated materials for the consideration of consumers in making challenging decisions.

In developing a proposed order with the FTC, the Receiver is applying significant institutional knowledge he and his team have gained over the past two years, as well as helpful information obtained from consultation with experts and experienced professionals. With the benefit of this perspective, the Receivership Team has studied the issues carefully and comprehensively to inform decision-making on consumer redress approaches that are: (i) sensitive to the interests of consumer victims with varied priorities, (ii) cost-reasonable and time-manageable to address the broad responsibilities of the receivership while preserving assets, and (iii) practical relative to the uniqueness of the Belize real estate market and land transactions and the realities of doing business in a developing country.

As discussed during the recent telephone status conference, Belize land transactions and practices differ in material respects from those in the United States, and the Receiver's role is distinct from that of a U.S. commercial developer. For example, Belize has an emerging economy and very limited government resources compared to the United States. Among other things, relevant government records are often maintained in paper form only and not tracked in electronic databases. Moreover, the Receivership Team is managing the distressed assets in this matter with limited funds. In short, under the circumstances, the receivership does not have the plans, records, or resources a U.S. developer would typically have when offering residential lots for sale. Additionally complicating, many of the historical development area records in the Receiver's possession were prepared by the defendants as instrumentalities of the fraud scheme. As such, any lot purchases contemplated as part of the survey process cannot be viewed as merely a continuation of the purchases that a consumer originally bargained for. Instead, the consumers, with the benefit of risk disclosures, will be making an entirely different investment decision as they consider the current realities of entering into reformed contracts.

Because lots under Option 1 of the survey will be sold "as is," without any representations or warranties, and will also bind consumers to material financial obligations and conditions pre- and post-closing, the Receiver cautions against approaches that frame the lot transfers as simply an administrative exercise. Practically, consumers considering buying out their lots under reformed contracts now will be making complex and very personal arms-length investment decisions. Consistent with the Court's comments at the status conference, the Receiver, while not representing, acting for or making any guaranty to individual consumers, will work to provide information to consumers to facilitate their due diligence efforts and those of the professionals they hire.

To be clear, the Receiver's commitment to helping consumers in the survey process to the fullest extent possible and appropriate is unwavering. In accordance with the Court's guidance, the Receivership Team will continue to work with the FTC to incorporate into a proposed form of order administration components that are advisable, practical and permissible under the unique and complex facts and circumstances of this case.

Respectfully submitted,

Dated: November 19, 2023

By: /s/ Allison M. Rego
Allison M. Rego (CA Bar No. 272840)
Admitted Pro Hac Vice 5/25/23
Barnes & Thornburg LLP
655 West Broadway, Suite 1300
San Diego, CA 92101
Telephone: (619) 321-5003
Facsimile: (310) 284-3894
Email: arego@btlaw.com

Gary Owen Caris (CA Bar No. 088918)
Admitted Pro Hac Vice 11/30/18
Barnes & Thornburg LLP
2029 Century Park East, Suite 300
Los Angeles, CA 90067
Telephone: (310) 284-3880
Facsimile: (310) 284-3894
Email: gcaris@btlaw.com

By: /s/ James E. Van Horn
James E. Van Horn (Bar No. 29210)
Barnes & Thornburg LLP
555 12th Street, N.W.
Suite 1200
Washington, DC 20004-1275
Telephone: (202) 289-1313
Facsimile: (202) 289-1330
Email: jvanhorn@btlaw.com

Attorneys for Receiver, Marc-Philip Ferzan of
Ankura Consulting Group, LLC

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**[PROPOSED] ORDER GRANTING RECEIVER’S REQUEST FOR EXTENSION OF
TIME TO RESPOND TO THE FTC’S MOTION**

The Receiver, Marc-Philip Ferzan of Ankura Consulting Group, LLC (“Receiver”), has requested an extension of time to respond to the Federal Trade Commission’s motion (Doc. 1479, “FTC Motion”). Having considered the Receiver’s request, and good cause appearing, it is

ORDERED that:

The Receiver shall have through December 13, 2023 to respond to the FTC Motion.

Dated:

HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE