

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SECURITIES AND EXCHANGE COMMISSION
Plaintiff,

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Civil Action No. 4:11-cv-655

v.

JAMES G. TEMME, and
STEWARDSHIP FUND, LP,
Defendants.

MOTION TO APPROVE SETTLEMENT AGREEMENT WITH JEG PARTIES

COMES NOW, Keith M. Aurzada, as receiver in the above-captioned matter (the “Receiver”) for James G. Temme (“Temme”), Stewardship Fund, LP, and all other entities directly or indirectly controlled by Temme or Stewardship Fund, LP, including, but not limited to Stewardship Advisors, LLC, d/b/a Stewardship Advisors, LP, Stewardship Asset Management Genpar I, LLC, Stewardship Group, LLC, Destiny Fund, LP, and Stewardship Management, LP (collectively, the “Receivership Entities”), and submits this Motion to Approve Settlement Agreement with JEG Parties (the “Motion”). In support of the Motion, the Receiver would respectfully show the Court as follows:

I.
BACKGROUND

1. By this Motion, the Receiver seeks Court approval of a settlement agreement between the Receiver on one hand and JEG Property Investments, L.P. f/k/a Beracah Valley Enterprises, LP; NG Roth Investments, LLC; JG Roth Investments, LLC; JG Roth, LLC; HNG ESA, LLC; JDG ESA, LLC; SKG ESA, LLC; REG ESA, LLC; JAG ESA, LLC; John Graves;

Nicole Graves; and JEG Property Investments 401k Trust (collectively the “JEG Parties”), on the other hand.

2. On October 14, 2011, the Commission instituted the above-captioned action, and the Receiver was appointed as receiver for the Receivership Entities through the Court’s entry of the Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme (Dkt. No. 24); Agreed Order Appointing Receiver Over Stewardship Fund, LP, and Related Entities (Dkt. No. 25); and Order Appointing Receiver Over James Temme (Dkt. No. 30) (together, the “Receiver Orders”). Pursuant to the Receiver Orders, the Receiver is to “immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate and to any assets traceable to assets owned by the Receivership Estate.” Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme ¶ 4 (Dkt. No. 24).

A. JEG Property Investments, L.P. f/k/a Beracah Valley Enterprises, LP

3. From December 2006 to August 2011, JEG Property Investments, L.P. (“JEGPI”) entered into a series of agreements with the Receivership Entities. Under those agreements, JEGPI paid the Receivership Entities in excess of \$1,721,000 in exchange for a promise to provide JEGPI: (i) a 40% interest in 330 properties acquired in 2008; (ii) 40 properties acquired from Bank of America; (iii) 62 properties acquired from GMAC in October 2010; (iv) 48 notes in July 2011 (the “Swap Properties”); and (v) payments of \$60,000 per month until all collateral files related the properties were actually provided to JEGPI. [Dkt. 70 Exhibits B1-B3, *et. al.*].

4. Despite those agreements, and continual representations by James Temme that the collateral files would be delivered, JEGPI only actually received the collateral files to 48 Swap Notes and some of the required monthly payments.

5. The total amount of payments received by JEGPI from Receivership Entities is in dispute. However, the Receiver believes that it may have a potential claim against JEGPI to the extent any funds received by JEGPI that exceeded the amount of funds invested in the Receivership Entities. JEGPI disputes this claim.

6. Based on the representations of John Graves, the Receiver believes that, at this time, JEGPI is insolvent.

B. JEG Investment Group

7. NG Roth Investments, LLC; JG Roth Investments, LLC; JG Roth, LLC; HNG ESA, LLC; JDG ESA, LLC; SKG ESA, LLC; REG ESA, LLC; JAG ESA, LLC; John Graves; Nicole Graves; and JEG Property Investments 401k (the “JEG Investment Group”) each entered into a series of agreements with Receivership Entities from 2009 to 2011. Under those agreements, the JEG Investment Group paid the Receivership Estate in excess of \$2,273,067. In exchange, the JEG Investment Group was supposed to receive over 570 first lien notes and REO properties.

8. Over the course of three years, James Temme continually provided excuses for the delays in providing the collateral files. After three years of delays, James Temme offered to the JEG Investment Group a new agreement that would replace and supersede prior agreements.

9. The Performing Note Agreements, dated effective as of February 2, 2011 (the “PN Agreements”) and related Pledge Agreements dated effective as of July 12, 2011 (the “Pledge Agreements”), replace and supersede all prior agreements between the JEG Investment Group and the Receivership Entities. Under the PN Agreements, the JEG Investment Group (and JEGPI) received from the Receivership Entities two-hundred twenty seven (227) real estate backed mortgages and REO properties (the “Performing Assets”). [Dkt. 70 Exhibits A-A6].

Under the Pledge Agreements, the JEG Investment Group (and JEGPI) received a contingent, collateral interest in additional real estate backed mortgages and REO properties purportedly owned by the Receivership Entities (the “UCC Assets”). [Dkt. 70 Exhibits C-C6].

10. Certain of the Performing Assets and UCC Assets are included in the Receiver’s Motion for Authority Sell Properties to Lakeside Portfolio Management, LLC and Motion for Authority to Sell Property and to Approve Sales Procedures in the SEC Action (the “Sale Motions”) [Dkt. Nos. 103-104].

11. The JEG Parties’ alleged interest in such assets has prevented the Receiver from moving forward with the Sales Motions and liquidating significant assets of the Receivership Estate. The Receiver believes that he may assert an interest in the Performing Assets and the UCC Assets. Additionally, the Receiver believes that the Pledge Agreement, and JEG’s interest in the UCC Assets, may be avoidable.

12. In order to prevent the costs and expenses of litigating the Receiver’s claims against the JEG Investment Group and JEGPI, the Receiver and all JEG Parties have agreed to a settlement Agreement (attached hereto as Exhibit A). Under the Settlement Agreement, the Receiver agrees to waive, release, and relinquish all rights that the Receivership Estate may have to the 227 Performing Assets or UCC Assets, except to the extent any Performing or UCC Assets are subject to the Sales Motions. .

13. In consideration for such release, the JEG Parties waive, release, and relinquish all rights they may have to any of the Performing Assets or UCC Assets that are the subject of the Sales Motions so that they may proceed and the Receivership Estate can liquidate those assets. Moreover, the JEG Parties have agreed to provide to the Receivership Estate any interest they may have in the 48 Swap Properties. Although it is unclear whether any other entities may

claim an interest in the 48 Swap Properties, they represent another valuable asset that the Estate may liquidate for the benefit of its investors.

C. Other Agreements and Waiver of Claim

14. Certain of the JEG Parties entered into agreements with the Receivership Entities to acquire additional real estate backed mortgages and REO properties from Capstone, GMAC and Bank of America (“Missing Assets”). [Dkt 70 Exhibits A-A6; B-B3; C-C6]. Despite diligent attempts to locate any evidence of such assets, none has been found. The Receiver and JEG have agreed that, in the event that additional real estate backed mortgages and/or REO properties are located that are the subject of an agreement between any of the JEG Parties and any of the Receivership Entities, such assets shall be split between the Receivership Estate (40% interest) and the JEG Party that is party to the agreement (60% interest).

15. Furthermore, under the Settlement Agreement, the JEG Parties waive any and all claims against the Receivership Estate, including the right and ability to file a Proof of Claim and receive distributions from the Receivership Estate.

16. By entering into the Settlement Agreement with the Receiver, the JEG Entities waive any and all claims and objections to the Receivership Estate, and the Receiver believes that the cost to litigate its potential claims against the JEG Parties would exceed or greatly diminish the value of any recovery for the Receivership Estate. The Receiver further believes that the Settlement Agreement is fair and equitable and in the best interest of the Receivership Estate. Accordingly, the Receiver seeks authorization from the Court to enter into the Settlement Agreement attached hereto as Exhibit A.

II.

ARGUMENT

17. A federally appointed receiver is permitted to enter into settlement agreements so long as he does so in good faith, within the terms of his appointment, and without misconduct, gross negligence, or criminal intent. *See, e.g., Securities and Exchange Com'n v. Funding Resource Group*, 2003 WL 21500431, at * 1 (N.D. Tex. April 22, 2003); *Hawk v. Williams*, 2002 WL 31255096, at *5 (N.D. Tex. Oct. 4, 2002); *Brewer v. Hill*, 453 F.Supp. 67, 69 (N.D. Tex. 1978).

18. The Receiver was appointed in this matter according to the Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme (Dkt. No. 24); Agreed Order Appointing Receiver Over Stewardship Fund, LP, and Related Entities (Dkt. No. 25); and Order Appointing Receiver Over James Temme (Dkt. No. 30) (together, the “Receiver Orders”). Pursuant to the Receiver Orders, the Receiver is to “immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate and to any assets traceable to assets owned by the Receivership Estate.” Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme ¶ 4 (Dkt. No. 24).

19. Moreover, under the Receiver Orders the Receiver is entitled to “contract and negotiate with any claimants against the Receivership Estate (including, without limitation, creditors) for the purpose of compromising or settling any claim . . . Perform all acts necessary to conserve, hold, manage, and preserve the value of the Receivership Estate, in order to prevent any irreparable loss, damage, and injury to the Estate [and] Enter into such agreements in connection with the administration of the Receivership Estate.” Agreed Order Appointing Receiver Over Stewardship Fund, LP, and Related Entities ¶ 5(f)(h) (Dkt. No. 25).

20. The Receiver believes in good faith that the Settlement Agreement is in the best interest of the Receivership Estate and that it will result in recovery of Receivership Estate assets that would otherwise be irreparably devalued or lost entirely. Accordingly, the Receiver seeks immediate Court approval of the Settlement Agreement.

III.

RELIEF REQUESTED

The Receiver seeks immediate approval of the Settlement Agreement. The Receiver believes that the Settlement Agreement maximizes value of the Receivership Estate. For these reasons, the Receiver seeks immediate approval of the Motion and the Settlement Agreement.

Dated: April 29, 2013

BRYAN CAVE LLP

By: //s// Bradley J. Purcell

Keith Miles Aurzada

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CERTIFICATE OF CONFERENCE

I have discussed the relief requested herein with David Reece of the Securities and Exchange Commission. The relief requested herein is not opposed by the Securities and Exchange Commission.

//s// Bradley J. Purcell

Bradley J. Purcell

CERTIFICATE OF SERVICE

I certify that on April 29, 2013, I served a true and correct copy of the foregoing pleading by United States First Class Mail, postage prepaid, to the following in accordance with the Federal Rules of Civil Procedure:

David Reece
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Moreover, the foregoing will be uploaded to www.stewardshipfundreceivership.com

//s// Bradley J. Purcell

Bradley J. Purcell