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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

MANAGEMENT SOLUTIONS, INC., a  
Texas Corporation; WENDELL A.  
JACOBSON; ALLEN R. JACOBSON,

Defendants.

**ORDER CONFIRMING A PRIVATE  
SALE OF LAKE RIDGE PROPERTY AS  
PART OF MULTIFAMILY PROPERTIES  
AND APPROVING SALE FREE AND  
CLEAR OF LIENS WITH VALID LIENS  
TO ATTACH TO PROCEEDS**

Civil Action No. 2:11-cv-01165

Judge Bruce S. Jenkins

John A. Beckstead, the former Court-appointed receiver in this matter, and Gil A. Miller, the substitute receiver subsequently appointed by the Court (the "Receiver"), filed a Motion to Confirm a Private Sale of Multifamily Properties and to Approve Sale Free and Clear of Liens with Valid Liens to Attach to Proceeds (CM/ECF No. 1645), supplemented by a Supplement to Motion to Confirm a Private Sale of Multifamily Properties and to Approve Sale Free and Clear of Liens with Valid Liens to Attach to Proceeds (CM/ECF No. 1821) (collectively, the "Motion"), requesting an Order confirming the private sale of 28 multifamily properties (the

“Properties”) to the proposed buyer, Cortland Acquisitions, LLC (the “Buyer”), pursuant to that certain Agreement for the Purchase and Sale between John A. Beckstead, Receiver, and Cortland Acquisitions, LLC, dated as of February 4, 2014, as amended (the “Purchase Agreement”).

The Court previously conducted a hearing on the Motion on May 19, 2014, at 9:30 a.m., to consider the approval of 18 of the 28 properties. The Court approved the proposed sale with respect to those 18 properties by its Order dated June 3, 2014 (CM/ECF No. 1927).

The Court continued the hearing until August 1, 2014, 10:00 a.m. (the “August 1 Hearing”), to consider the Motion with respect to the remaining properties.

At the August 1 Hearing, the Receiver and his counsel, David K. Broadbent, Doyle S. Byers, and Timothy K. Clark appeared. Daniel J. Wadley appeared on behalf of the Securities and Exchange Commission; Lon A. Jenkins appeared on behalf of CWC Capital Asset Management LLC, as Special Servicer for U.S. Bank National Association, as Trustee for the Registered Holders of CD 2007-CD4 Commercial Mortgage Trust, Commercial Mortgage Pass-Through Certificates, Series CD 2007-CD4 (“U.S. Bank”); Joseph Covey appeared on behalf of the C. Eugene McDermott, Mary Ann McDermott, Forest Hills Apartments, McKean Enterprises, Eric Clark Welling, Mary Katherine Welling, Pheasant Wood, and Nycom Apartments; Mitch Stephens appeared on behalf of CFCRE 2011-C1 Kengary Way, CFCRE 2011-C2 Heatherbridge Lane, and CFCRE 2011-C1 Apartments 12900; Carolyn Montgomery appeared on behalf of the B.C. Warner Investments, L.C., Truckpro, L.C., SLEA 423 L.L.C., B.C. Warner Revocable Trust, BCW - D.O., L.L.C., BCW - Maui, L.L.C., BCW - S.F. L.L.C., TMB Limited Company, Bart C. Warner, James N. Warner, Jeffrey K. Wetzels, Gerald A. Zmyslo; Matthew C. Barneck appeared on behalf of Matthew A. Nielson, Jill R. Nielson, Black

Cliffs Investments, and MJ5 Investments, LLC; Kyle Fielding appeared on behalf of Holbrook Farms, LC, Scott and Michelle Beeville, LLC and Holbrook J3, LLC (the "Holbrooks"); Jared Fields appeared on behalf of Fannie Mae; Jeffrey Silvestrini appeared on behalf of Eric D. Bishop, Inc. and Adams Bay Lighthouse Investments, LLC; James Anderson appeared on behalf of the Buyer; and Gregory Hoole appeared on behalf of the MSI Investor Group.

At the August 1 Hearing, the Receiver's counsel addressed the status of the ten remaining properties that were originally included in the proposed sale. With respect to the property known as the Lake Ridge Property located in Hilliard, Ohio, the Receiver's counsel reported that the parties who claim ownership interests in that property, had each agreed in principle to the sale of that property, but that all signed stipulations had not yet been received. With respect to the objection filed by U.S. Bank (CM/ECF No. 1758), the Receiver's counsel reported that the Receiver and secured lender had reached an agreement in principle, subject to final approval by secured lender's governing committee.

Following the August 1 Hearing, the Court entered its Order dated August 15, 2014 (the "August 15 Order"), in which the Court, in part, reserved approval with respect to the Lake Ridge Property pending the Receiver obtaining final unconditional consents and resolution of objections from interested parties. The August 15 Order stated that, "In the event the Receiver obtains such unconditional consents and resolutions of objections from interested parties, the Receiver may advise the Court of the same and submit a proposed order with respect to the Oak Hill and Lake Ridge properties without the need for further hearing with respect to those two properties."

On August 29, 2014, the Receiver filed the combined stipulations of the parties who claim ownership interests in the property (the "TIC Stipulations"; CM/EFC No. 2092.) wherein the purported tenant-in-common owners of the Lake Ridge Property have each consented to the Receiver's proposed sale of the Lake Ridge Property. (*Id.* at 1.)

On September 24, 2014, U.S. Bank filed a notice withdrawing its prior objections, at Docket No. 1758 and 1840), to the sale of the Lake Ridge Property (CM/ECF No. 2132.)

Regarding the sale of the Lake Ridge Property and consistent with the Court's August 15 Order, the Receiver has advised the Court that, with the TIC Stipulations and U.S. Bank's withdrawal of its objection, the Receiver has obtained such unconditional consent and resolution of objections from interested parties related to the Lake Ridge Property.

Based upon the submissions of the Receiver on this matter, the arguments of counsel, the TIC Stipulations, and U.S. Bank's withdrawal of its objection, and good cause appearing, the Court HEREBY FINDS AND ORDERS as follows:

1. The Receiver's Motion, as it pertains to the Lake Ridge Property, is granted (the address and legal description of the Lake Ridge Property is listed in **Exhibit A** hereto);
2. The Receiver's notices and procedures for proposing the private sale of the Lake Ridge Property are approved and confirmed pursuant to the Purchase Agreement, and the Receiver is found to have complied and satisfied all procedures for noticing the Motion, the relief requested therein, and the hearing(s) as ordered by the Court and/or required by 28 U.S.C. § 2001(b);

3. The private sale of the Lake Ridge Property is in the best interest of the receivership, and the sales price for the Lake Ridge Property is in accordance with the requirements of 28 U.S.C. § 2001(b);

4. The terms of the proposed private sale of the Lake Ridge Property are hereby approved and confirmed by the Court, and the sale shall be conducted free and clear of any and all liens, claims, encumbrances, and ownership interests, with all valid liens, claims, encumbrances, and ownership interests, if any, for any given property, to attach to the portion of proceeds attributable to the sale of that given property. Consistent with the Court's previous Order on the Motion, dated June 3, 2014 (CM/ECF No. 1927), only for purposes of determining amounts to pay to secured lender who hold secured liens on any given property, the Receiver shall use the method of allocation described in the Amended Second Liquidation Plan of Receiver filed on August 26, 2013 (CM/ECF No. 1226), which provides for the median appraisal price set forth in the appraisals attached as exhibits to the Motion and summarized in the chart attached to the Motion as Exhibit 3<sup>1</sup> (CM/ECF No. 1650-1) to be allocated to each property from the proceeds, net of closing costs, of the sale. Valid liens belonging to secured lender shall attach to the proceeds, net of closing costs, allocated to the Lake Ridge Property by this method, and such proceeds shall be kept in a separate account designated for the Lake Ridge Property;

5. The Receiver is authorized and directed to finalize the private sale of the Lake Ridge Property under the terms of the proposed sale outlined in the Motion and at the hearings, and such sale is hereby confirmed by the Court;

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<sup>1</sup> To the extent there are discrepancies between the chart and the actual appraisals attached to the Motion, the appraisals will control the determination of the median appraised values of the properties.

6. The Receiver is authorized to execute and deliver, perform under, consummate, implement, and close the Purchase Agreement with respect to the Lake Ridge Property, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and the sale with respect to the Lake Ridge Property, including any other ancillary documents, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement. Gil A. Miller, as the substitute Receiver (CM/ECF No. 1813), is found to have succeeded to the interest of John A. Beckstead as Receiver and seller under the terms of the Purchase Agreement;

7. Contemporaneously with the closing of the Lake Ridge Property, the Receiver is authorized to distribute from the proceeds thereof to secured lender of the relevant property those sums owed the secured lender, comprised of principal, non-default rate interest, and a portion of the additional amounts claimed by secured lender which the Receiver agrees to pay to resolve such claims by secured lender. Proceeds allocated to the Lake Ridge Property, which are not distributed upon the closing of the sale, shall be segregated pending further order of the Court;

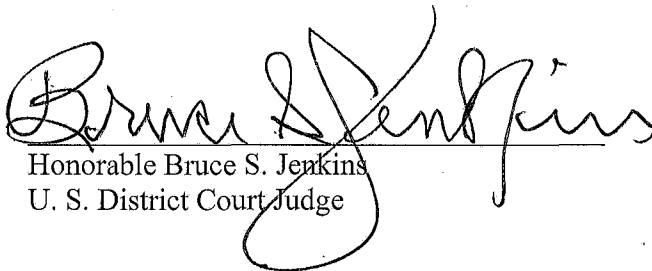
8. All parties claiming a lien, claim, encumbrance, or ownership interest in the Lake Ridge Property shall, upon request of the Receiver, release and mark released and canceled in recordable form any such lien, claim, encumbrance, ownership interest, or other claim (collectively the "Interests" and each an "Interest") to the Lake Ridge Property, except those arising from *ad valorem* real property and personal property taxes;

9. A certified copy of this Order may be filed with the appropriate clerk and/or recorded with the recorder to act to cancel the Interests of record; and

10. All objections related to the sale of the Lake Ridge Property are overruled and denied except for objections as to the appropriate method of allocation – either the Receiver’s Allocation or the Buyer’s Allocation – of sale proceeds to investors. This order does not address, and explicitly reserves for the benefit of all parties, only these objections.

DATED this 25<sup>th</sup> day of September, 2014.

**BY THE COURT:**



Honorable Bruce S. Jenkins  
U. S. District Court Judge

**EXHIBIT A**

Situated in the City of Columbus, County of Franklin, State of Ohio, described as follows:

**TRACT I:**

**SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN, AND IN THE CITY OF COLUMBUS:**

BEING UNITS NUMBERED 2640, 2642, 2644, 2646, 2650, 2652, 2654, 2656, 2660, 2662, 2664, 2666, 2670, 2672, 2674, 2676, 2691, 2693, 2695, 2697, 2701, 2703, 2705, 2707, 2761, 2763, 2765, 2767, 2771, 2773, 2775, 2777, 2781, 2783, 2785, 2787, 2791, 2793, 2795, 2797, G-39, G-40, G-41, G-42, G-43, G-44, G-45, G-46, G-47, G-48, G-49, G-50, G-51, G-52, G-53 AND G-54, IN LAKE RIDGE CONDOMINIUMS, AS THE SAME ARE NUMBERED, DESIGNATED, DELINEATED AND DESCRIBED IN THE DECLARATION, BYLAWS AND DRAWINGS THEREOF, FILED RESPECTIVELY AS INSTRUMENT NO. 199802170034685, AND AS AMENDED IN INSTRUMENT NO. 199803090054070 AND CONDOMINIUM PLAT BOOK 76, PAGE 77, RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO.

**TRACT II:**

**SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN, AND IN THE CITY OF COLUMBUS:**

BEING UNITS NUMBERED 2631, 2633, 2635, 2637, 2641, 2643, 2645, 2647, 2651, 2653, 2655, 2657, 2661, 2663, 2665, 2667, 2721, 2723, 2725, 2727, 2731, 2733, 2735, 2737, 6133, 6135, 6137, 6139, 6143, 6145, 6147, 6149, 6153, 6155, 6157, 6159, 6163, 6165, 6167, 6169, G-31, G-32, G-33, G-34, G-35, G-36, G-37, G-38, G-55, G-56, G-57, G-58, G-59, G-60, G-64, G-65 AND G-66, IN LAKE RIDGE CONDOMINIUMS, AS THE SAME ARE NUMBERED, DESIGNATED, DELINEATED AND DESCRIBED IN THE DECLARATION, BYLAWS AND DRAWINGS THEREOF, FILED RESPECTIVELY AS INSTRUMENT NO. 199802170034685, AND AS AMENDED IN INSTRUMENT NO. 199803090054070 AND CONDOMINIUM PLAT BOOK 76, PAGE 77, RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO.

**TRACT III:**

**SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN, AND IN THE CITY OF COLUMBUS:**

BEING UNITS NUMBERED 2600, 2602, 2604, 2606, 2610, 2612, 2614, 2616, 2620, 2622, 2624, 2626, 2630, 2632, 2634, 2636, 2741, 2743, 2745, 2747, 2751, 2753, 2755, 2757, 2800, 2802, 2804, 2806, 2810, 2812, 2814, 2816, 2820, 2822, 2824, 2826, 2830, 2832, 2834, 2836, G-



1, G-2, G-3, G-4, G-5, G-6, G-7, G-8, G-17, G-18, G-19, G-20, G-21, G-22, G-23 AND G-24, IN LAKE RIDGE CONDOMINIUMS, AS THE SAME ARE NUMBERED, DESIGNATED, DELINEATED AND DESCRIBED IN THE DECLARATION, BYLAWS AND DRAWINGS THEREOF, FILED RESPECTIVELY AS INSTRUMENT NO. 199802170034685, AND AS AMENDED IN INSTRUMENT NO. 199803090054070 AND CONDOMINIUM PLAT BOOK 76, PAGE 77, RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO.

TRACT IV:

SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN, AND IN THE CITY OF COLUMBUS:

BEING UNITS NUMBERED 2671, 2673, 2675, 2677, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2690, 2692, 2694, 2696, 2700, 2702, 2704, 2706, 2710, 2712, 2714, 2716, 6134, 6136, 6138, 6140, 6144, 6146, 6148, 6150, 6154, 6156, 6158, 6160, 6164, 6166, 6168, 6170, G-9, G-10, G-11, G-12, G-13, G-14, G-15, G-16, G-25, G-26, G-27, G-28, G-29, G-30, G-61, G-62, AND G-63, IN LAKE RIDGE CONDOMINIUMS, AS THE SAME ARE NUMBERED, DESIGNATED, DELINEATED AND DESCRIBED IN THE DECLARATION, BYLAWS AND DRAWINGS THEREOF, FILED RESPECTIVELY AS INSTRUMENT NO. 199802170034685, AND AS AMENDED IN INSTRUMENT NO. 199803090054070 AND CONDOMINIUM PLAT BOOK 76, PAGE 77, RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO.

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