

WALLER LANSDEN DORTCH & DAVIS, LLP

Blake D. Roth
Ryan K. Cochran (admitted *pro hac vice*)
511 Union Street, Suite 2700
Nashville, Tennessee 37219
Telephone: 615.244.6380
Email: blake.roth@wallerlaw.com
ryan.cochran@wallerlaw.com

Counsel for the Receiver

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**DWAYNE EDWARDS; TODD BARKER;
SENIOR SOLUTIONS OF SOCIAL
CIRCLE, LLC; OXTON PLACE OF
DOUGLAS, LLC, d/b/a OXTON REAL
ESTATE OF DOUGLAS, LLC; ROME
ALF, LLC; SAVANNAH ALF, LLC;
GAINESVILLE ALF, LLC; WATERFORD
PLACE ALF, LLC; MONTGOMERY ALF,
LLC; COLUMBUS ALF, LLC; and
OPELIKA ALF, LLC,**

Defendants,

-and-

**OXTON SENIOR LIVING, LLC; MANOR
HOUSE SENIOR LIVING, LLC; SUSAN
EDWARDS, a/k/a SUSAN ROGERS;
SHARON NUNAMAKER, a/k/a SHARON
HADDEN; and SDH DESIGN, LLC,**

Relief Defendants.

Case No. 2:17-cv-393-ES-SCM

**ORDER GRANTING FINAL APPROVAL OF SETTLEMENT AND
RELATED RELIEF INCLUDING A FINAL BAR ORDER**

This matter comes before the Court on the Receiver’s *Request for (I) Entry of Preliminary Approvals and Scheduling Order and (II) Motion for Entry of Order Approving Proposed Settlement, the Proposed Notice of Settlement, and to Enter the Bar Order and Final Judgment* (the “**Motion**”). (Dkt. No. 327). The Motion was filed by Derek Pierce, the court-appointed Receiver in this case (“**Receiver**”). Following notice and a Final Approval Hearing on December 18, 2019, and having considered the Motion and any and all responses, replies, and other filings with respect to the Motion; and having heard and considered the arguments presented at the Final Approval Hearing¹; and upon finding that this Court has jurisdiction over the Motion and that venue is proper in this Court; and upon finding good and sufficient cause for granting the relief sought in the Motion; and for the reasons stated on the record at the Final Approval Hearing and those that follow, the Court **GRANTS** the Motion.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Factual and Procedural Background

1. The Settlement Agreement

The Settlement which is the subject of the Motion is set forth in a written Settlement Agreement by and between: (i) Derek Pierce, in his capacity as Receiver and as assignee of claims of Bondholders²; (ii) Carr, Riggs & Ingram, LLC (“**CRI**”); (iii) Wink Laney (“**Laney**”); and (iv) Russ Frederick (“**Frederick**” and, together with CRI and Laney, the “**CRI Parties**”);³ (v) BOKF, National Association d/b/a Bank of Oklahoma (“**Trustee BOKF**”); UMB Bank, N.A.

¹ Capitalized terms used in this Order and not otherwise defined herein shall have the meaning set forth in the Preliminary Approval Motion or the Settlement and Release Agreement (“**Settlement Agreement**”) attached as Exhibit “1” to the Preliminary Approval Motion.

² Consistent with the terms of the Settlement Agreement, the term Bondholders means all “Persons (as defined in the Settlement Agreement) who or which currently own or previously owned a Bond.”

³ Laney and Frederick are members of CRI.

(“*Trustee UMB*”); and (vii) U.S. Bank, National Association (“*Trustee U.S. Bank*” and, together with Trustee BOKF and Trustee UMB, the “*Indenture Trustees*,” and, singularly, an “Indenture Trustee”), each in their capacities as Indenture Trustees.⁴ The essential terms of the Settlement are summarized in Section I. A. 5., below, and in the Notice of proposed Settlement previously approved by the Court. The Settlement Agreement itself contains a full and complete statement of terms.

2. Factual Background

The Receiver’s Motion arises in the context of an ongoing equitable receivership proceeding, initiated on motion of the Securities and Exchange Commission (“*SEC*”) and carried out pursuant to orders and under the supervision of this Court. The entities in receivership, at issue in Receiver’s Motion, include the following: Oxton Place of Douglas, LLC d/b/a Oxton Real Estate of Douglas, LLC (“*Douglas*”), Rome ALF, LLC (“*Rome*”), Savannah ALF, LLC (“*Savannah*”), Gainesville ALF, LLC (“*Gainesville*”), Waterford Place ALF, LLC (“*Waterford*”), Montgomery ALF, LLC (“*Montgomery*”), Columbus ALF, LLC (“*Columbus*”) and Opelika ALF, LLC (“*Opelika*” and, together with Douglas, Rome, Savannah, Gainesville, Waterford, Montgomery and Columbus, the “*Borrowers*”).

The Borrowers, eight in number, are limited liability companies formed for the purpose of acquiring and operating assisted living and/or memory care facilities. After obtaining conduit municipal bond financing as described below, each Borrower acquired and operated an assisted living and/or memory care facility (separately, a “*Facility*” and, collectively, the “*Facilities*”).

⁴ Each of the parties to the Settlement Agreement is hereinafter referred to as a Party and, collectively, as the “Parties,” to the Settlement Agreement.

The Borrowers were formed by Dwayne Edwards (“*Edwards*”) and Todd Barker (“*Barker*”). Edwards and Barker each owned a 50% interest in each of the Borrowers.

During the period from August 28, 2014 (Douglas) through September 24, 2015 (Opelika), each of the Borrowers was a party to a conduit municipal bond offering secured by an Indenture (each, an “*Offering*” and, collectively, the “*Offerings*”). The stated purposes for each such Offering included the acquisition and operation of a Facility. Through these Offerings, the Borrowers collectively raised from Bondholders approximately \$58.5 million.⁵

Each of the Offerings is secured by an Indenture naming an Indenture Trustee and empowering such indenture trustee to assert and protect the rights of Bondholders. Trustee BOKF is the Indenture Trustee with respect to six of the Offerings, *i.e.*, those relating to Douglas, Rome, Savannah, Gainesville, Waterford and Columbus. Trustee U.S. Bank is the Indenture Trustee with respect to the Opelika Offering. Trustee UMB is the Indenture Trustee with respect to the Montgomery Offering. Pursuant to their respective Indentures, each of the Indenture Trustees has the right, power and authority to pursue claims against third parties for injuries caused to Bondholders in connection with the respective Offerings for which they serve as Indenture Trustee (subject to an assignment of such claims to the Receiver, as discussed below).

CRI is a public accounting firm. In connection with each of the Offerings, and continuing through 2016, the CRI Parties performed various professional services for the Borrowers. Each of the Borrowers engaged CRI, among other things, to examine forecasted financial statements prepared by the Borrower’s management (a “*Financial Forecast*”) and to

⁵ The bonds issued in connection with the Offerings are herein referred to collectively as the “Bonds” and singularly as a “Bond” and, as noted in footnote 2, the Persons who or which currently own or previously owned a Bond are referred to collectively as the “Bondholders” and singularly as a “Bondholder.”

issue an independent accountant's report (a "**Report**") with respect to such Financial Forecast. CRI issued a Report with respect to each Offering. Management's Financial Forecast and CRI's Report were included in the official statement prepared for each Offering (singularly, an "**Official Statement**" and, collectively, the "**Official Statements**"). In each such Report, CRI opined that management's related Financial Forecast was presented in conformity with guidelines for presentation of a financial forecast established by the American Institute of Certified Public Accountants ("**AICPA**") and that the underlying assumptions provided a reasonable basis for management's Financial Forecast. CRI's Reports and the Official Statements contained cautionary statements regarding the Financial Forecasts, including statements in the Reports that there will usually be differences between forecasted and actual results, because events and circumstances frequently do not occur as expected and those differences may be material. In addition to examining and providing a Report with respect to management's Financial Forecast, CRI provided other accounting services to each Borrower, including audit, compilation and tax services.

During 2016, each of the Borrowers defaulted on its obligations with respect to the Bonds resulting in various bankruptcy and receivership proceedings, including, ultimately, this action brought by the SEC. As a result of such defaults, many of the Bondholders sustained losses by reason of their investments in the Bonds.

3. Procedural Background

The SEC commenced this action on January 20, 2017, by filing a Complaint naming Edwards, Barker, each of the Borrowers, and Senior Solutions of Social Circle, LLC ("**Social Circle**") as defendants. (Dkt. No. 1).⁶ In its Complaint, the SEC generally alleged that the

⁶ Social Circle was a ninth entity through which Edwards and Barker, through conduit municipal bond financing, acquired and operated an assisted living facility. The CRI Parties, however, had no involvement with that entity. In

defendants had improperly commingled and misappropriated money from the Offerings and revenues of the Facilities and sought the appointment of a receiver to administer the assets and the receivership estates (“**Receivership Estates**”) of the Borrowers. On the same day that the Complaint was filed, January 20, 2017, the SEC moved, *inter alia*, for the appointment of a receiver. (Dkt. No. 2). On January 23, 2017, this Court entered its Order granting the SEC’s motion and appointing the Receiver (the “**Receivership Order**”). (Dkt. No. 7).

Pursuant to the Court’s Receivership Order, this Court has exclusive jurisdiction over and possession of the assets of the Borrowers. The Receivership Order vests in the Receiver all powers and authority of a receiver at equity and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Rule 66 of the Federal Rules of Civil Procedure, including the authority to investigate and pursue claims and causes of action for the benefit of the Receivership Estates and their creditors, including the Bondholders.

Following the entry of the Receivership Order, and in furtherance of his responsibilities, the Receiver investigated whether claims existed against third parties. Based upon his investigation, the Receiver came to believe that each of the Borrowers, the Indenture Trustees on behalf of those Bondholders who or which currently own a Bond, and those Bondholders who or which previously owned a Bond, held claims against the CRI Parties for alleged injuries caused to each Borrower and the Bondholders arising out of the Offerings and the CRI Parties’ professional services described above (respectively, the “**Receivership Borrower Claims**,” the “**Current Bondholder Claims**,” and the “**Previous Bondholder Claims**”).

addition to those named as Defendants identified in the text, the SEC’s Complaint joined the following as “**Relief Defendants**”: Oxtan Senior Living, LLC; Manor House Senior Living, LLC; Susan Edwards a/k/a Susan Rogers; Sharon Nunamaker a/k/a Sharon Hadden; and SDH Design, LLC.

Pursuant to an Assignments of Claims dated April 13, 2018 by and between the Receiver and the Indenture Trustees, as amended pursuant to an Amendment No. 1 to Assignments of Claims dated October 1, 2018, and further amended in the Settlement Agreement (as amended, the “*Assignment Agreement*”), each of the Indenture Trustees assigned its right, power and authority to pursue the Current Bondholder Claims to the Receiver (the “*Assigned Bondholder Claims*,” and along with the Receivership Borrower Claims and the Previous Bondholder Claims, the “*Claims*”). On January 26, 2018, the Receiver filed an application seeking the authority to pursue the Claims and to retain special litigation counsel to assist him in doing so (the “*Claims Authorization Motion*”). (Dkt. No. 206). On March 6, 2018, this Court granted the Receiver’s Claims Authorization Motion, thereby authorizing the Receiver to pursue such claims. (Dkt. No. 242). On April 13, 2018, and May 3, 2018, respectively, the Receiver, though his counsel, sent to the CRI Parties a Demand Letter before Legal Action and a Supplement to Demand Letter before Legal Action (together, the “*Demand Letter*”), asserting and seeking to resolve the Claims in advance of commencing a legal proceeding. Thereafter, in an effort to resolve the Claims, the CRI Parties and the Receiver commenced a mediation proceeding and conducted in-person mediation before a JAMS mediator panelist over the period from November 8, 2018, through November 9, 2018 (the “*Mediation*”). Before, during and after the Mediation, the Receiver and the CRI Parties negotiated at arm’s length and in good faith, and ultimately, without admission or concession of liability or fault, reached the Settlement.

On May 24, 2019, the Receiver filed the Motion. (Dkt. No. 327). The Court thereafter entered a Scheduling Order on June 27, 2019, which, *inter alia*, preliminarily approved the Settlement, authorized the Receiver to provide notice of the Settlement, established a

schedule for the filing of objections and responses to objections to the Settlement and the relief sought by the Motion, established the deadline and the manner for the submission of claims by previous Bondholders, and set the date for the Final Approval Hearing to determine whether to grant final approval of the Settlement and enter the requested Bar Order and Judgment. (Dkt. No. 330). Pursuant to the Court's Scheduling Order, on September 3, 2019, the Receiver filed a Declaration of Compliance, certifying compliance with the notice requirements of the Scheduling Order. (Dkt. No. 346). On December 18, 2019, the Court held the scheduled Final Approval Hearing.

During the Final Approval Hearing, any and all Persons who properly and timely filed objections to the Settlement and requested to be heard were afforded a full and fair opportunity to be heard. Proponents of the Settlement were likewise afforded a full and fair opportunity to be heard. The arguments of those heard during the Final Approval Hearing have been fully considered by the Court.

4. Summary of the Claims Asserted by the Receiver and the Defenses of the CRI Parties

The claims and defenses of the Receiver and the CRI Parties were fully developed and explored in the course of their negotiations and Mediation. They are summarized in the Notice previously approved by the Court.

Generally, the Receiver alleged that the CRI Parties breached their obligations to the Borrowers and the Bondholders with respect to the Financial Forecasts and made misstatements by issuing in the CRI Reports "*clean opinions*" for each such Financial Forecast. In this regard, the Receiver contended, among other things, that the CRI Parties: (i) lacked the independence required to perform their responsibilities as independent certified public accountants in examining and preparing Reports in connection with the Financial Forecasts; (ii) failed to

disclose significant assumptions underlying the Financial Forecasts, without issuing an adverse opinion, including assumptions regarding the use of funds and planned renovations and/or expansions of the Facilities; and (iii) failed properly to obtain support for and evaluate underlying assumptions concerning anticipated revenues that would be generated by realizing certain stabilized occupancy rates during and after renovation and/or expansion of a particular Facility. The Receiver asserted claims against CRI under various theories of recovery, including negligence, intentional tort, breach of contract, and breach of fiduciary duty.

For their part, the CRI Parties denied the Receiver's allegations and raised other defenses. The CRI Parties: (i) denied that they breached any obligations in connection with the Financial Forecasts and/or made any misstatements in the Reports; (ii) denied that they lacked the required independence; (iii) denied that they failed to disclose significant assumptions underlying the Financial Forecasts, including assumptions regarding the use of funds and planned renovations and/or expansions of the Facilities; and (iv) denied that they otherwise failed to obtain support for or evaluate significant assumptions underlying the Financial Forecasts, including assumptions concerning anticipated revenues that would be generated by realizing certain stabilized occupancy rates during and after renovation and/or expansion of a particular Facility. To the contrary, the CRI Parties asserted that, in carrying out the engagements concerning the Financial Forecasts, CRI acted in conformity with AICPA guidance by performing such examination procedures as it considered necessary in the exercise of its professional judgment in the circumstances and by reasonably concluding, based on the preponderance of information, that management's assumptions were suitably supported and provided a reasonable basis for management's Financial Forecasts.

The CRI Parties further contended, among other things: (i) that, if the allegations of misconduct by Edwards and Barker were true, the claims of the Borrowers were barred by the doctrine of *in pari delicto*; (ii) that the Receivership Borrower Claims, the Bondholder Claims, and the Previous Bondholder Claims lacked merit because of the inability of all to prove reasonable reliance on anything the CRI Parties did or said; and (iii) that the conduct and statements of the CRI Parties were not the proximate cause of any loss that either the Borrowers or the Bondholders might have sustained, such loss being caused instead by unforeseeable subsequent events, including, among other things, an ownership break-up between Edwards and Barker, unanticipated regulatory issues and the mismanagement and/or misconduct of other parties. In short, the CRI Parties vigorously denied any wrongdoing on any theory of liability, whether based on common law or statute and whether sounding in negligence, intentional tort, breach of contract, breach of fiduciary duty, or otherwise.

5. Summary of the Essential Terms of the Settlement

Under the terms of the Settlement Agreement, CRI will pay \$10 million to the Receiver. The Receiver shall, in turn, distribute a portion of the Net Settlement Amount, i.e., the Settlement Amount less attorneys' fees and costs awarded by the Court, first, to previous Bondholders who timely submit a fully and properly completed Claim Form and qualify for a distribution under the Distribution Plan, and, second, to the Indenture Trustees of the Bonds for distribution, in turn, to those Bondholders who or which currently hold a Bond. Current Bondholders do not need to submit a Claim Form.

In return, the CRI Parties seek global peace with respect to all claims that have been, or could have been, asserted against the CRI Released Parties, that in any way relate to the subject matter of this case, the Receiver, the Receivership Entities, the Bonds, the

Bondholders and/or any Settled Claim, including any claim, however denominated, seeking contribution or indemnity. Accordingly, the Settlement is conditioned on the Court's approval and entry of the Bar Order and Judgment, barring, restraining, and enjoining the Receiver, the Receivership Entities, the Receivership Estates, the Borrowers, the Indenture Trustees, all previous, present and future Bondholders, the Claimants, the Issuers, all Interested Parties, and all non-governmental Persons, from prosecuting or pursuing any such claims against the CRI Released Parties.

For the reasons set forth herein, the Court finds that the terms of the Settlement Agreement are adequate, fair, reasonable, and equitable, and that the Settlement should be and is hereby **APPROVED**. The Court further finds that entry of the Bar Order and Judgment is appropriate and necessary.

II. FURTHER FINDINGS AND CONCLUSIONS

Accordingly, it is further hereby **FOUND, CONCLUDED AND DETERMINED** as follows:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure (sometimes, the "*Rules*").

B. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. All findings of fact and conclusions of law announced by the Court at the Final Approval Hearing in relation to the Motion are incorporated herein by reference to the extent not inconsistent with this Order.

C. This Court, as a court of equity, has “broad powers and wide discretion to determine the appropriate relief in [this] equity receivership,” including the authority to enter the requested Bar Order and Judgment. *SEC v. Kaleta*, 530 F. App’x 360, 362 (5th Cir. 2013) (internal quotations omitted). Moreover, the Receiver is a proper party to seek the entry of the Bar Order and Judgment.

D. The Court finds that the methodology, form, content, and dissemination of the Notice and Short Form Notice: (i) were implemented in accordance with the requirements of the Scheduling Order; (ii) constituted the best practicable notice; (iii) were reasonably calculated, under the circumstances, to apprise all Interested Parties of the Settlement, the releases contained in the Settlement Agreement, and the injunctions provided for in this Bar Order and Judgment; (iv) were reasonably calculated, under the circumstances, to apprise all Interested Parties of their rights and obligations in connection with the Settlement, the Distribution Plan, the Bar Order and Judgment, and the Receiver’s request for approval of the professional fees and expenses of the Receiver’s general counsel, Waller, and special counsel, Whiteford Taylor; (v) were reasonable and constituted due, adequate, and sufficient notice; (vi) met all requirements of applicable law, including the Rules, the United States Code and the United States Constitution (including Due Process); and (vii) provided all Persons entitled to notice with a full and fair opportunity to be heard on these matters. No other or further notice is necessary or shall be required.

E. The legal and factual bases set forth in the Motion establish just and sufficient cause to grant the relief requested therein.

F. The Settlement Agreement and the transactions contemplated thereby, including the releases given therein, are in the best interests of the Borrowers, the Receivership Estates, creditors, including the Bondholders, and all other parties in interest.

G. The disclosures made by the Receiver and the Indenture Trustees concerning the Settlement Agreement and the related relief requested pursuant to the Motion were good, complete, and adequate.

H. The Settlement, including the Settlement Amount, was reached following extensive investigation of the facts and resulted from vigorous, good faith, arms-length, mediated negotiations involving experienced and competent counsel.

I. The Claims that have been or may be asserted against the CRI Parties by the Receiver and/or by others whose claims or potential claims are foreclosed by the Bar Order and Judgment entail vigorously disputed facts and complex, novel, and unsettled issues of law that have also been vigorously disputed. Resolution of such disputed factual and legal issues would require substantial time, effort, and expense to litigate, with a significant risk that the Receiver and such others may not ultimately prevail on such claims. Thus, there is a significant risk that future litigation of such claims may dissipate the assets of the Receivership Estates. Additionally, significant issues exist as to the merit and value of the claims asserted against the CRI Parties by the Receiver or that may be asserted by others whose potential claims are foreclosed by this Bar Order and Judgment.

J. After careful consideration of the record and applicable law, the Court concludes that the Settlement is the best option for maximizing the net amount recoverable from the CRI Parties for the Receivership Estates and the Bondholders.

K. The Settlement has been designed to ensure that all affected Bondholders have received an opportunity to resolve their claims against the CRI Parties through receipt of a portion of the Settlement Amount pursuant to the Receiver's Distribution Plan approved by the Court.

L. The ancillary relief measures requested in the Motion, specifically the Bar Order and Judgment, barring, restraining, and enjoining the pursuit and prosecution of claims against the CRI Released Parties, are essential to the CRI Parties' agreement to enter into the Settlement. In the absence of such a Bar Order and Judgment, the CRI Parties would not enter into the Settlement.

M. The Receiver acted reasonably, in good faith, and in the best interests of the Borrowers, the Receivership Estates, and all other Persons in interest, including the Bondholders, in negotiating and entering into the Settlement Agreement.

N. The Indenture Trustees have the right to assert and assign to the Receiver the Current Bondholder Claims as Indenture Trustees under the Indentures and to enter into and to approve the Settlement and the Settlement Agreement in their representative capacities and on behalf of those Bondholders who or which currently own a Bond. The Indenture Trustees have acted prudently, in good faith, and in the best interests of those Bondholders who or which currently own a Bond in assigning the Current Bondholder Claims to the Receiver and in approving the Settlement and executing the Settlement Agreement. The actions of the Indenture Trustees with respect to the Settlement and the Settlement Agreement have been consistent with all duties owed by the Indenture Trustees to those Bondholders who or which currently own a Bond and are consistent with the Indentures and applicable laws.

O. The Settlement Agreement and the transactions contemplated thereby, including the releases given therein, meet the standards established for the approval of a compromise and settlement in an equity receivership action; are reasonable, fair, equitable; and are supported by fair and adequate consideration.

P. The Settlement Agreement was negotiated, proposed, and entered into by the Receiver, the Indenture Trustees, and the CRI Parties without collusion, in good faith, and from arms-length bargaining positions.

Q. The Receiver has demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for entering into the Settlement Agreement.

R. The allocation of the Net Settlement Proceeds among the Receivership Estates of the Borrowers is fair, reasonable, and equitable, and the distribution of the allocated Net Settlement Proceeds to previous Bondholders who timely submit a fully and properly completed Claim Form and qualify for a distribution under the Distribution Plan, and to the Indenture Trustees for the benefit of those Bondholders who or which currently own a Bond, as provided for in the Settlement Agreement, is fair, reasonable and equitable.

S. The fees and expenses of the Receiver and its general counsel and special counsel are reasonable and necessary.

T. Given all of the circumstances and the adequacy of the consideration provided to the Receivership Estates, and, in turn, to their Bondholders, by the CRI Parties, the Settlement Agreement constitutes a reasonable, informed, and sound exercise of the Receiver's and

Indenture Trustees' business judgment, is prudent, is in the best interests of the Receivership Estates and the respective Bondholders, and should be approved.

III. ORDER

NOW THEREFORE, IT IS HEREBY **ORDERED, ADJUDGED, and DECREED:**

1. The relief requested in the Motion is **GRANTED**.
2. The Settlement Agreement (which is deemed incorporated herein by reference) is hereby approved in all respects.
3. Any objections to the relief sought in the Motion that have not been previously resolved, withdrawn, waived, or settled, and all reservations of rights included in such objections, are hereby overruled on their merits.
4. The Receiver and the Indenture Trustees are authorized and directed to take any and all actions necessary and/or appropriate to effectuate and implement the Settlement Agreement and the relief granted pursuant to this Order, and neither the Receiver nor the Indenture Trustees shall have any liability to any person or entity in connection with any of the actions authorized pursuant to this Order and/or effectuating the Settlement Agreement.
5. Each and every term and provision of the Settlement Agreement including the releases, together with the terms and provisions of this Order, shall be binding in all respects upon all parties in interest with respect to these proceedings.
6. Pursuant to the provisions of Paragraph 61 and 62 of the Settlement Agreement, as of the Settlement Effective Date, the CRI Released Parties shall be completely released, acquitted, and forever discharged from all Settled Claims by the Receiver Releasing Parties and the Indenture Trustees Releasing Parties.

7. Pursuant to the provisions of Paragraph 65 of the Settlement Agreement, as of the Settlement Effective Date, the Receiver Released Parties and the Indenture Trustees Released Parties shall be completely released, acquitted, and forever discharged from all Settled Claims by the CRI Releasing Parties.

8. The failure specifically to include any particular provisions of the Settlement Agreement in this Order shall not diminish or impair the efficacy of such provisions, it being the intent of the Court that the Settlement Agreement and each and every provision, term and condition thereof, be, and therefore is, authorized and approved in its entirety.

9. The provisions of this Order are non-severable and mutually dependent.

10. This Order shall take effect immediately and shall not be stayed, nor shall any stay apply to or otherwise prevent the exercise or performance by any Party of its rights or obligations under the Settlement Agreement.

11. The Indenture Trustees' first-priority lien, as applicable, on all assets of the Borrowers, including the Claims, shall attach to the Settlement Amount once paid by CRI to the Receiver pursuant to the Settlement Agreement.

12. The Indenture Trustees have the authority to enter into the Settlement Agreement and grant the releases therein.

13. The Indenture Trustees' entry into the Settlement Agreement is a prudent, good faith, informed exercise of the Indenture Trustees' sound business judgment.

14. The Settlement Agreement and the settlements, releases, and discharges contemplated thereby shall be binding on all Parties to the Settlement Agreement, the parties in this case, all parties in interest in this case, any and all previous, present or future Bondholders,

and any parties associated with the issuance of the respective Bonds made the basis of the Claims resolved by the Settlement approved herein.

15. The Receiver and the Indenture Trustees, following receipt of the Settlement Amount, are hereby authorized and directed to distribute the professional fees and costs and the Net Settlement Proceeds and to take all reasonable and necessary actions to make such distributions in accordance with the terms of the Settlement Agreement.

16. The Receiver shall file the Claims Report with the Court within sixty (60) days of the entry of this Order. Any objection to the Claims Report must be filed within fourteen (14) days of the filing of the Claims Report. If no objection is filed, the Claims Report shall be the final, binding determination of the allowance or disallowance of each Claim Form. The Court shall separately address any objection to the Claims Report.

17. The Court hereby permanently bars, restrains, and enjoins, the Receiver, the Receivership Entities, the Receivership Estates, the Borrowers, the Indenture Trustees, all previous, present and future Bondholders, the Claimants, the Issuers, all Interested Parties, and all non-governmental Persons, all and individually, from directly, indirectly, or through a third party, asserting, instituting, reinstating, intervening in, initiating, commencing, maintaining, continuing, filing, encouraging, soliciting, supporting, participating in, collaborating in, or otherwise prosecuting or pursuing, against the CRI Parties and/or any of the CRI Released Parties, any demand, claim, investigation, action, lawsuit, cause of action, complaint, or proceeding of any nature in any Forum, including, without limitation, any court of first instance or any appellate court, whether individually, derivatively, on behalf of a class, as a member of a class, or in any other capacity whatsoever, that in any way relates to, is based upon, arises from, or is connected with this case, the subject matter of this case, the Receiver, the Receivership

Entities, the Bonds, the Bondholders, the Indenture Trustees, and/or any Settled Claim. The foregoing specifically includes any claim by any Person, however denominated, seeking contribution, indemnity, damages, or any other remedy where the alleged injury to such Person, or the claim asserted by such Person, is based upon such Person's liability to the Receiver, any Receivership Entity, any Bondholder, any Indenture Trustee, any Claimant, and/or any other Interested Party arising out of, relating to, or based in whole or in part upon money owed, demanded, requested, offered, paid, agreed to be paid, or required to be paid to the Receiver, a Receivership Entity, a Bondholder, an Indenture Trustee, a Claimant, and/or any other Interested Party whether pursuant to a demand, judgment, claim, agreement, settlement, or otherwise.

18. Notwithstanding the foregoing, the releases in the Settlement Agreement, and the releases, bars, injunctions, and restraints set forth in this Order, do not limit or prohibit in any way the evidence that may be offered in any case or proceeding, nor do they limit or prohibit the taking of discovery under applicable Rules, nor do they limit or prohibit in any way the Parties' right to sue for alleged breaches of the Settlement Agreement or to enforce its terms or the terms of this Order.

19. The CRI Released Parties shall have no liability, responsibility, or obligation whatsoever with respect to the notice provided with respect to the Settlement. No Interested Party or any other Person shall have any recourse against CRI or the CRI Released Parties with respect to the notice process or any claims that may arise from or relate to the notice process.

20. The CRI Released Parties shall have no liability, responsibility, or obligation whatsoever with respect to the investment, management, use, administration, or distribution of the Settlement Amount or any portion thereof, including, but not limited to, the costs and

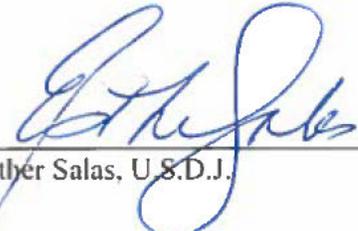
expenses of such investment, management, use, administration, or distribution of the Settlement Amount, and any Taxes arising therefrom or relating thereto

21. The Receiver shall serve a copy of this order via email, first class mail or international delivery service on all parties who received notice of the Motion and any Person who filed an Objection to the Settlement, the Settlement Agreement and/or the Bar Order and Judgment, within three (3) business days of the entry of this Order.

22. The Court expressly finds and determines, pursuant to Rule 54(b), that there is no just reason for any delay in the entry of this Order, which is both final and appealable, and immediate entry by the Clerk is expressly directed.

23. Without in any way affecting the finality of this Order, the Court retains exclusive jurisdiction to, among other things, administer, interpret, implement, and enforce the terms and provisions of this Order and the Settlement Agreement and all amendments thereto and any waivers and consents thereunder, and to adjudicate, if necessary, any and all disputes concerning, arising out of, or relating in any way to the implementation and enforcement of this Order and/or the Settlement Agreement.

Dated: December 18, 2019



Esther Salas, U.S.D.J.