

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

**RECEIVER GREGORY S. MILLIGAN’S MOTION FOR APPROVAL OF  
PROCEDURES FOR SALE OF REAL PROPERTY AND RETENTION OF SOTHEBY’S  
INTERNATIONAL REALTY, INC. AS BROKER**

Receiver Gregory S. Milligan, of the firm Harney Management Partners, LLC (the “Receiver”), with the consent of the Securities and Exchange Commission (the “SEC”) and the Office of the United States Attorney (the “U.S. Attorney’s Office”), respectfully moves the Court for an order (1) approving proposed procedures for the sale of the residential real property held by the Receiver (the “Real Property Sales Procedures”), and (2) authorizing the Receiver to retain and employ Sotheby’s International Realty, Inc.<sup>1</sup> (“Sotheby’s”) as broker of the residential real property pursuant to the fee proposal (the “Motion”). The facts and circumstances supporting this Motion are set forth in the Declaration of Gregory S. Milligan (the “Milligan Declaration”), which is attached hereto as **Exhibit A**. In further support of this Motion, the Receiver states as follows:

<sup>1</sup> <https://www.sothebysrealty.com/eng>

## I. BACKGROUND

1. Currently, the real property of the Receivership Estate<sup>2</sup> consists of real property located in Florida, Maryland, Nevada, and Texas. As stated in the Receiver's Initial Preservation Plan, the Receiver has identified the following real property as property of the Receivership Estate:

- 1055 Spyglass Lane, Naples, Florida 34102;
- 1848 Circle Road, Towson, Maryland 21204;
- 27776 Sharp Road, Easton, Maryland 21601;
- 531 Hampton Lane, Baltimore, Maryland 21286;
- 3018 Susanne Court, Owings Mills, Maryland 21117;
- 1718 Greenspring Valley Road, Stevenson, Maryland 21153;
- 9017 Grove Crest Lane, Las Vegas, Nevada 89134;
- 1132 Glade Road, Colleyville, Texas 76034;
- 1650 Cedar Hill, Dallas, Texas 75208;
- 2308 Cedar Elm Terrace, Westlake, Texas 76262; and
- 2801 Paramount Boulevard, Amarillo, Texas 79109

(the "Real Property"). *See* Dkt. No. 54 at 17. The Real Property includes property owned by the Receivership Parties and as further identified in the First Amended Order Appointing Receiver. *See* Dkt. No. 62 at 3. The Receiver is unaware of additional parcels of Real Property at this time, but intends the relief requested herein to control the disposition of any subsequently-discovered parcels. The Receiver requests authority to sell the Real Property to carry out his obligations under the Receivership Order.

2. The Receivership Order requires the Receiver to "manage, control, operate, and maintain the Receivership Estate and hold in his possession, custody, and control all Receivership Assets pending further Order of this Court." Dkt. No. 62 at ¶ 8(D). The Receivership Order further requires the Receiver to "take such action as necessary and

---

<sup>2</sup> Capitalized terms herein shall have the same meaning as used in the First Amended Order Appointing Temporary Receiver (the "Receivership Order") (Dkt. No. 62) unless otherwise noted.

appropriate for the preservation of Receivership Assets or to prevent the dissipation or concealment of Receivership Assets.” Dkt. No. 62 at ¶ 8(G). The Receivership Order also provides in relevant part that:

[T]he Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist him in carrying out the duties and responsibilities described in this Order. With the exception of the retention of counsel to represent him in this matter, the Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement.

Dkt. No. 62 at ¶ 63.

3. The Receiver believes that the sale of the Real Property is in the best interest of the Receivership Estate to maximize the recovery and preservation of Receivership Assets. The Real Property Sales Procedures will assist the Receiver by allowing him to maximize the sales proceeds received from the sale of the Real Property while selling such property in an efficient and cost-effective manner.

## **II. REQUESTED RELIEF**

### **A. Proposed Real Property Sales Procedure.**

4. The Receiver seeks Court authorization to adopt the Real Property Sales Procedures proposed by this Motion, and authorization to sell the Real Property in accordance with such procedures. The Receiver anticipates that private sales through use of a qualified broker will maximize the value of the Real Property. Consequently, the Receiver requests authority to sell the Real Property by either public auction or private sale, after consultation with and recommendation from Sotheby’s. *See* Milligan Declaration.

5. Implementation of the Real Property Sales Procedures will enable the Receiver to sell the Real Property in an orderly, efficient, and equitable manner and to maximize the proceeds received from such sales. The Receiver believes that adoption of the Real Property

Sales Procedures and the sale of the Real Property pursuant thereto is in the best interests of the Receivership Estate. *See* Milligan Declaration.

6. The Receiver's proposed Real Property Sales Procedures consist of the following:
  - a. Private Sales. If the best interests of the Receivership Estate will be served thereby and after consultation with Sotheby's, the Receiver may seek Court approval to sell certain parcels of the Real Property by traditional private sale. Due to the residential nature of most of the properties, the Receiver anticipates that a private sale after Sotheby's has marketed the Real Property may be the best means to achieve the maximum value for the benefit of the Receivership Estate. The Receiver shall consult with his broker for its expertise concerning the best means of liquidating each parcel of Real Property. If the Receiver determines that it is in the best interest of the Receivership Estate to dispose of some or all of the Real Property by private sale, the Receiver will move this Court for authority to sell the Real Property after providing adequate notice to all interested parties (each, a "Sale Motion"). Each Sale Motion will require all parties with objections to the sale, or with claims to or against the property to be sold, to timely respond to the Sale Motion or be deemed to consent to the sale. Each Sale Motion will contain the following notice language:

This Motion for Sale of Real Property ("Sale Motion") seeks approval of the sale of real property located at [ADDRESS] (the "Real Property"). If you oppose the sale identified in this Sale Motion, or if you have a claim to or against the Real Property, you should immediately contact the undersigned counsel for the Receiver Gregory S. Milligan (the "Receiver"). If you and the Receiver cannot agree, you must file a written objection (or a claim of ownership or interest in the Real Property, identifying the source of your claim) to the proposed sale. Your objection or claim must state why the proposed sale should not be approved by the Court. If no party files a timely objection or claim, the proposed sale may be approved by the Court, thereby authorizing the Receiver to close the sale as soon as practicable.

- b. Notice of Sale Motion. The Sale Motions will be served on all Known Parties of Interest. As used in this Motion, the term “Known Parties of Interest” shall mean: (i) all counsel and/or pro se parties of record who have registered to receive electronic service; (ii) all parties of record in this matter who have not registered to receive electronic service; and (iii) any individuals or entities who hold a recorded lien on the Real Property at issue. Any Known Parties of Interest appearing in this case shall receive a copy of the Sale Motion through the Court’s CM/ECF filing system. All other Known Parties of Interest shall receive a copy of the Sale Motion through regular U.S. Mail. The Sale Motion will act as formal legal notice of the proposed sale and will require all Known Parties of Interest with objections to the proposed sale, or with claims to or against the property to be sold, to timely respond to the Sale Motion or be deemed to consent to the sale. The Receiver will also post a copy of the Sale Motion and proposed order on the Receiver’s website for this case, [www.merrill-ledford.com](http://www.merrill-ledford.com), to provide adequate notice to the public of the proposed sales.
- c. Claims Process. Any party asserting a claim against the Real Property shall be required to file its claim within thirty (30) days of the date of entry of the Order granting this Motion. To the extent that a claim is made to or against the Real Property, the claimant shall describe such claim in detail. The Receiver’s response to any claim against the Real Property shall be due within fourteen (14) days of the date the claim was filed with the Court. If the Receiver fails to respond to the claim, the claim shall be deemed allowed and the Real Property shall be sold subject to the claim. If the Receiver files a response, the Court may thereafter determine whether a hearing is necessary to allow or deny the claim.

- d. Objections. Any party asserting an objection to a Sale Motion shall be required to file its objection within thirty (30) days of the filing of the Sale Motion. In the event an objection is filed to a Sale Motion, such objecting party shall state why the proposed sale should not be approved by the Court and whether the objecting party has a proposed buyer who is willing to purchase the Real Property for an amount that exceeds the proposed sale price in the Sale Motion. The Receiver's response to any objection to a Sale Motion shall be due within fourteen (14) days of the date the objection was filed with the Court. If the Receiver fails to respond to the objection, the objection shall be granted and the Sale Motion shall be denied. If the Receiver files a response, the Court may thereafter determine whether a hearing is necessary to (i) approve the sale, (ii) sustain the objection, or (iii) order a public auction with the proposed buyer and terms under the Sale Motion to act as a "stalking horse" bid, subject to higher and better offers.
- e. Sales Free and Clear. If no objection or claim is filed, or if the Court approves the sale subsequent to an objection, the Receiver's sale of the Real Property shall be free and clear of all liens, claims, and encumbrances, unless the Court orders that such liens, claims, or encumbrances shall attach to the proceeds of such sale. All allowed claims shall attach to the proceeds of the sale of such applicable Real Property without need for further Court order. If any party asserts a lien, claim or encumbrance on any Real Property to be sold, such sale may go forward to closing, with a determination of the extent, validity and/or priority of the alleged lien, claim or encumbrance to be made by the Court at a later date.

f. Report of Sales Results. The Receiver shall, when reporting on the Receivership Estate generally, report on the results of all sales of Real Property that closed prior to the date of the report.

**B. Employment and Retention of Sotheby's.**

7. The Receivership Order authorizes the Receiver to enter into such agreements with personnel to assist the Receiver to carry out his duties and responsibilities under the Receivership Order after receiving Court approval.

8. The Receiver seeks to retain Sotheby's to represent the Receiver as the sales agent and broker for the marketing and sale of certain Real Property.<sup>3</sup> The Receiver wishes to employ Sotheby's pursuant to terms and conditions similar to those set forth in the fee proposal (the "Fee Proposal") described in the Milligan Declaration.

9. Sotheby's is comprised of over 285 licensed salespeople and brokers who work with clients to buy, rent or sell luxury real estate throughout the United States. The Receiver's representation will be managed by Sotheby's broker Tess Chaney, an experienced licensed salesperson maintaining an office at 50 Briar Hollow Lane, Suite 700W, Houston, Texas. The Receiver believes that the Sotheby's team is qualified to represent the Receiver based on their years of experience and knowledge of luxury residential real estate markets across the United States. *See* Milligan Declaration.

10. The Receiver requires the knowledge and experience of Sotheby's in the luxury residential real estate market to effectively market and sell the Real Property. *See* Milligan

---

<sup>3</sup> At this time, the Receiver contemplates that Sotheby's will be marketing all of the Real Property except for the Paramount Boulevard, Cedar Elm Terrace, and Glade Road properties. The Receiver will seek authority for a broker for the Amarillo property through separate motion. *See* Milligan Declaration.

Declaration. The Receiver believes that Sotheby's and its brokerage team are qualified to represent the Receiver in the marketing and sale, upon Court order, of the Real Property for the benefit of the Receivership Estate. *See* Milligan Declaration.

11. The professional services that Sotheby's will render to the Receiver for the benefit of the Receivership Estate shall include providing advice and assistance in the marketing and sale of the Real Property. In addition, Sotheby's will assist the Receiver by maintaining the Real Property prior to the disposition of the Real Property. Sotheby's will assist the Receiver in evaluating the offers and selecting the best offer.

12. The Receiver seeks approval to pay Sotheby's fees in connection with the marketing, sale and maintenance of the Real Property, pursuant to the fee structure set forth in the Milligan Declaration. Sotheby's fees will consist of a commission in the range of 3% to 6% and a flat administrative fee not to exceed \$500.00 which is consistent with industry standards. The Receiver further proposes that any commission or administrative fee to be paid to Sotheby's for its brokerage services will be requested as part of any motion to sell the Real Property and, if such motion is approved, Sotheby's fees shall be paid as part of the closing of the real estate transaction.

13. The Receiver believes that the Sotheby's compensation structure is fair market value, especially in light of Sotheby's national presence and expertise in the luxury home market. The Receiver believes that engaging Sotheby's is in the best interests of the Receivership Estate. *See* Milligan Declaration at ¶¶ 12, 20.

### III. CONCLUSION

WHEREFORE, the Receiver respectfully requests that this Court enter an Order: (i) granting the Motion; (ii) authorizing the Receiver to adopt and follow the Real Property Sales



Procedures described in this Motion; (iii) authorizing the Receiver to sell the Real Property, free and clear of liens, claims, and encumbrances (with such liens, claims, and encumbrances, if any, to attach to the sales proceeds), pursuant to the Real Property Sales Procedures; (iv) approving the Receiver's employment and retention of Sotheby's pursuant to the Fee Proposal; and (v) granting such other relief as the Court deems just and proper.

Date: March 8, 2019.

Respectfully Submitted,

/s/ Lynn H. Butler

Lynn H. Butler, *pro hac vice*  
HUSCH BLACKWELL LLP  
111 Congress Ave., Suite 1400  
Austin, TX 78701  
Tel: (512) 472-5456  
Fax: (512) 479-1101

[lynn.butler@huschblackwell.com](mailto:lynn.butler@huschblackwell.com)

Brian P. Waagner, Fed. Bar No. 14954  
HUSCH BLACKWELL LLP  
750 17th Street, NW, Suite 900  
Washington, D.C. 20006  
Tel: (202) 378-2300  
Fax: (202) 378-2318

[brian.waagner@huschblackwell.com](mailto:brian.waagner@huschblackwell.com)

Buffey E. Klein, *pro hac vice*  
HUSCH BLACKWELL LLP  
2001 Ross Avenue, Suite 2000  
Dallas, Texas 75201  
Tel: (214) 999-6100  
Fax: (214) 999-6170

[buffey.klein@huschblackwell.com](mailto:buffey.klein@huschblackwell.com)

*Counsel for Receiver Gregory S. Milligan*

**CERTIFICATE OF SERVICE**

On March 8, 2019, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court for the District of Maryland, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically through the Court's CM/ECF filing system for all parties who have registered to receive electronic service. Additionally, the foregoing document was served on the following parties not registered for Court's CM/ECF filing system as indicated below:

**Defendant Kevin B. Merrill (via U.S. Mail):**

Kevin B. Merrill  
Harford County Detention Center, #1335278  
1030 Rock Spring Rd.  
Bel Air, MD 21014

**Criminal Counsel for Defendant Kevin B. Merrill (via E-Mail and U.S. Mail):**

Elizabeth Genevieve Oyer  
Office of the Federal Public Defender  
100 S Charles St Ste 900 Tower II  
Baltimore, MD 21201  
liz\_oyer@fd.org

Maggie Grace  
Office of the Federal Public Defender  
100 S Charles St, Tower II, 9th Floor  
Baltimore, MD 21201  
maggie\_grace@fd.org

**Criminal Counsel for Defendant Jay B. Ledford (via E-Mail and U.S. Mail):**

Harry J Trainor , Jr  
Trainor Billman Bennett and Milko LLP  
116 Cathedral St Ste E  
Annapolis, MD 21401  
htrain@prodigy.net

**Criminal Counsel for Defendant Cameron R. Jezierski (via E-Mail and U.S. Mail):**

Joseph J Aronica  
Duane Morris LLP  
505 9th St NW Ste 1000  
Washington, DC 20004  
jjaronica@duanemorris.com

**Criminal Counsel for Relief Defendant Amanda Merrill (via E-Mail and U.S. Mail):**

David Z Seide  
5301 Burling Terrace  
Bethesda, MD 20814  
seide.david@gmail.com

**Relief Defendant Lalaine Ledford (via U.S. Mail):**

Lalaine Ledford  
10512 Courtney Cove Ave.  
Las Vegas, NV 89144

**Baltimore County Office of Law (via E-Mail and U.S. Mail):**

Susan B. Dubin  
Baltimore County Office of Law  
400 Washington Avenue  
Towson, Maryland 21204  
sdubin@baltimorecountymd.gov

**Dundalk United Methodist Church (U.S. Mail):**

Dundalk United Methodist Church  
c/o Edward F. Mathus  
6903 Mornington Road  
Baltimore, Maryland 21222

**Lienholders, Tax Assessors, and Other Interested Parties (U.S. Mail):**

Florida Community Bank, N.A.  
2325 Vanderbilt Beach Road  
Naples, Florida 34109

Mortgage Electronic Registration Systems, Inc.  
PO Box 2026  
Flint, Michigan 48501-2026

Collier County, Florida Tax Assessor  
3291 Tamiami Trail East  
Naples, Florida 34112

Maryland Department of Assessments & Taxation  
301 W. Preston Street  
Baltimore, Maryland 21201-2395

Branch Banking and Trust Company,  
A North Carolina Banking Corporation  
PO Box 1290  
Whiteville, North Carolina 28472

Talbot County, Maryland Finance Office  
Talbot County Courthouse  
11 North Washington Street, Suite 9  
Easton, Maryland 21601

HSBC Bank USA, National Association, as trustee of  
J.P. Morgan Alternative Loan Trust 2006-A5  
c/o Howard n. Bierman, Trustee  
c/o Select Portfolio Servicing, Inc.  
3815 Southwest Temple  
Salt Lake City, Utah 84115

Clark County, Nevada Tax Assessor  
500 S. Grand Central Parkway  
Las Vegas, Nevada 89155

First Financial Bank, N.A. Southlake  
3205 E. Hwy. 114  
PO Box 92840  
Southlake, Texas 76092

Hunter Kelsey of Texas, LLC  
4131 Spicewood Springs Road, Bldg. J-1A  
Austin, Texas 78759

Frost Bank, f/k/a The Frost National Bank  
c/o Michael J. Quilling  
Quilling, Selander Lownds, Winslett & Moser, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201

The City of Colleyville, Texas  
c/o Victoria W. Thomas  
Nichols, Jackson, Dilard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

Tarrant County, Texas Tax Assessor  
100 E. Weatherford  
Fort Worth, Texas 76196

J Trust  
c/o Hillary RE. Badrow, Trustee  
2801 Paramount Boulevard  
Amarillo, Texas 79109

Dallas Central Appraisal District  
2949 N. Stemmons Freeway  
Dallas, Texas 75247-6195

Bozeman West  
PO Box 1970  
15632 West Main Street  
Bozeman, Montana 59771-1970

Neil A. Patel  
5308 Burgandy Court  
Colleyville, Texas 76034

TIB – The Independent Bankers Bank  
350 Phelps Court, Suite 200  
PO Box 560528i  
Dallas, Texas 75356-0528

Wachovia Mortgage, FSB  
PO Box 659548  
San Antonio, Texas 78265-9548

Denton County Tax Assessor  
1505 E. McKinney Street  
Denton, Texas 76209-4525

Potter County, Texas Tax Assessor  
900 South Polk, Suite 106  
Amarillo, Texas 79101

Wells Fargo Home Mortgage  
P.O. Box 10335  
Des Moines, IA 50306

Albertelli Law  
Attn: Coury M. Jacocks  
2201 W. Royal Lane, Suite 155  
Irving, TX 75063

Samual I. White, P.C.  
5040 Corporate Woods Drive, Suite 120  
Virginia Beach, VA 23462

*/s/ Lynn H. Butler*

---

Lynn H. Butler