

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION**

CASE NO. 20-14342-CIV-CANNON/Maynard

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**THOMAS GITY, SR., THOMAS GITY, JR., and
TREASURE COAST PROPERTY ENTERPRISES, LLC.,**

Defendants.

**ORDER CONFIRMING, AUTHORIZING, AND APPROVING
LIQUIDATION AGENT'S SALE AND TRANSFER OF REAL PROPERTY**

THIS CAUSE comes before the Court on Liquidation Agent, Michael P. Dunn's ("Liquidation Agent") Motion for Entry of Order Confirming, Authorizing and Approving (i) Liquidating Agent's Sale and Transfer of Real Property, (ii) Procedures for the Transfer of the Real Property, (iii) Disbursements at Closing, and (iv) Related Relief (the "Sale Motion").

The Court has considered the Sale Motion and the record in this case and notes that the parties have filed a Stipulation of Waiver agreeing to waive the requirements of 28 U.S.C. § 2001 for any sale of the Property by the Liquidating Agent [ECF No. 104, p. 6]. The Court also finds as follows: (1) sufficient and adequate notice of the Sale Motion has been provided under the circumstances to all parties entitled to such notice; (2) there have been no objections to the Sale Motion; (3) the legal and factual bases set forth in the Sale Motion establish just cause for granting the relief requested therein; (4) the Liquidation Agent has demonstrated a sound business justification for the relief requested in the Sale Motion; and (5) the Liquidation Agent has detailed the marketing of the Real Property and the request for approval of the procedures to be utilized for the transfer of the Real Property. For these reasons, and based upon all of the proceedings had

CASE NO. 20-14342-CIV-CANNON/Maynard

before the Court and the evidence received or proffered in connection with the disposition of the Real Property, the Court determines that the relief requested in the Sale Motion is warranted in fact and by law and hereby **ORDERS AND ADJUDGES** that:

1. The Sale Motion is **GRANTED**.
2. Buyers, Suitberto Arias and Lilian Arias (collectively, “Buyers”), made the highest or best offer for the real property located at 1250 SE Coral Reef Street, Port St. Lucie, Florida (Folio # 420-510-1254-000-7) [LOT 40 AND 41, BLOCK 432, PORT ST. LUCIE SECTION THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 13A, PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA] (the “Real Property”), on the terms and conditions set forth in the “As Is” Residential Sale Contract for Sale and Purchase, executed between the Liquidating Trustee and Buyers (“Sale Contract”).
3. The sale of the Real Property to the Buyers, “as is, where is,” is hereby **APPROVED** in all respects, and the Liquidation Agent is authorized and empowered to sell the Real Property to the Buyers pursuant to the terms of the Sale Contract for the agreed upon Purchase Price and to execute and deliver any instruments or documents in connection therewith.
4. According to the Stipulation of Waiver of 28 U.S.C. § 2001 for the sale of the Defendant’s interest in the Real Property [ECF No. 104] between the Defendant and Securities and Exchange Commission, the Defendant consented to waive the mandatory appraisal and notice requirements set forth in 28 U.S.C. § 2001. The terms of the proposed private sale of the Real Property as set forth in the Sale Motion are consented to by the parties herein and warrant waiver of § 2001.

CASE NO. 20-14342-CIV-CANNON/Maynard

5. The sale and transfer of the Real Property is legal, valid and effective disposition of the Real Property notwithstanding any requirement for approval or consent by any person, and shall vest the Buyers with all right, title and interest of the Liquidation Agent in and to the Real Property free and clear of all liens, claims, interests and encumbrances of whatever kind or nature, but subject to the permitted exceptions set forth in the Old Republic Title Insurance Company Title Commitment No. 1175851 A1 (the "Permitted Encumbrances").
6. In accordance with this Sale Order, each of the Buyers is hereby directed to pay the Purchase Price in accordance with the Sale Contact at closing.
7. At closing, the Liquidation Agent, through Dunn Law P.A. as the designated title and closing agent, is authorized and empowered to pay applicable closing costs from the gross proceeds of the sale of the Real Property, including, without limitation, title charges and premiums, transfer taxes, accrued and outstanding ad valorem and non-ad valorem property taxes, special assessments, and other ordinary closing costs, recording fees, reasonable sale expenses, reimbursement of reasonable and necessary expenditures made to protect and preserve the value of the Real Property, in his discretion, as well as to pay the 6% real estate commissions to Trustee Realty Inc. and United Realty Group Inc., as the listing and cooperating brokers in this transaction, and any other costs as set forth in the final HUD-1 closing statement/closing disclosure, as approved by the Commission. Any title insurance premiums (including owners' title insurance) will be paid by the Buyers.
8. To the extent that any Permitted Encumbrances are not paid, released, or otherwise satisfied at closing, any and all valid, enforceable and perfected Permitted Encumbrances shall attach to all proceeds from the sale of the Real Property as their interests may appear in respect of the Real Property, in such priorities as existed on the date of the closing, subject to any claims or defenses of the respective title holders of the Real Property, subject to,

CASE NO. 20-14342-CIV-CANNON/Maynard

among other things (a) any state of facts that an accurate survey may show; (b) any covenants, restrictions and easements of record; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; and (e) environmental conditions.

9. Following the closing of the Real Property, no holder of any claim or encumbrance shall interfere with Buyer's title to or use and enjoyment of the Real Property or Buyer's title to or use and enjoyment of the Real Property based on or related to any such claim or encumbrance.
10. All persons and entities holding claims or encumbrances, which are not Permitted Encumbrances, with respect to the Real Property are hereby barred from asserting any claim or encumbrances against the Real Property, following closing of the Real Property authorized hereby.
11. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Liquidation Agent to transfer the Real Property to Buyers in accordance with the Sale Motion and this Sale Order.
12. This Sale Order is and shall be binding upon and govern the acts of all persons and entities, including all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons and entities is hereby directed to accept for filing any and all of the

CASE NO. 20-14342-CIV-CANNON/Maynard

documents and instruments necessary and appropriate to consummate the transactions contemplated by this Sale Order.

13. The Liquidation Agent is authorized, empowered and directed to enter into, execute, deliver and perform, or cause to be executed, delivered and performed such documents, instruments and agreements to consummate the sale of the Real Property contemplated by the Sale Motion, and expend or cause to be expended such funds as are reasonably necessary in his discretion to close the sale of the Real Property and fulfill the terms and conditions of this Court's Orders, and take such other actions as are necessary or desirable to effectuate the terms of the Sale Contract.

14. The Liquidation Agent is authorized and empowered to deposit the balance of the proceeds from the sale of the Real Property after payment of the sums set forth above, and as set forth in the final HUD-1 closing statement/disclosure, into the IOLTA account of Dunn Law P.A., to be held therein until such time as this Court shall make a further order regarding distribution of those proceeds.

15. If any person or entity that has filed financing statements, mortgages, deed of trust, mechanic's liens, *lis pendens* or other documents, instruments or agreements evidencing claims or encumbrances against the Real Property has not delivered to the Liquidation Agent prior to the closings of the sale, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, or releases of all claims, encumbrances or other interests that the person or entity has with respect to the Real Property or otherwise, then: (a) the Liquidation Agent is authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Real Property; and (b) the Liquidation Agent may to file, register or otherwise record a certified copy of this Sale Order, which, once filed, registered or

CASE NO. 20-14342-CIV-CANNON/Maynard

otherwise recorded, shall constitute conclusive evidence of the release of all claims, encumbrances or such other interests against the Real Property. This Sale Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state or local government agency, department or office. Notwithstanding and without limiting the foregoing, the provisions of this Sale Order authorizing the sale and assignment of the Real Property free and clear of liens, claims and encumbrances, shall be self-executing, and neither the Liquidation Agent nor the Buyers, shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the provisions of this Sale Order.

16. Subject to the delivery of the consideration in accordance with the Sale Contract and completing all other deliveries required under the Sale Contract, the sale of the Real Property by the Liquidation Agent to the Buyers shall constitute a legal, valid and effective transfer of the Real Property notwithstanding any requirement for approval or consent by any person and shall vest the Buyers with all right, title and interest in and to the Real Property free and clear of all liens, claims, and encumbrances, except for the Permitted Encumbrances and those existing tax liens or claims of the Saint Lucie County Tax Collector or Saint Lucie County.

17. In the event of default by the Buyers, in addition to any other right, claim or action that he has or may have, the Liquidation Agent may retain as liquidated damages any deposits delivered by the Buyers, and those funds shall be deemed gross proceeds of the Real Property available to pay compensation to the Liquidation Agent, his professionals, and the Order Granting Motion for Final Judgment in favor of the SEC entered against Defendant, Thomas Gity, Sr. [ECF No. 51], and the Buyers shall not have any right to the return of such funds.

CASE NO. 20-14342-CIV-CANNON/Maynard

18. Thomas Gity Sr. and the Liquidation Agent are each hereby authorized and directed at the closing of the Real Property to execute, deliver, implement and fully perform under such documents, instruments and agreements that may be reasonably necessary or desirable to implement the terms of this Sale Order and the Sale Contract, and to take or cause to be taken all further actions, and expend or cause to be expended such funds as may be necessary or appropriate to perform the obligations, and effectuate the transactions contemplated by the terms of this Sale Order and the Sale Contract.
19. The terms and provisions of this Sale Order shall be binding in all respects upon Thomas Gity, Sr. and his affiliates, heirs, successors, and assigns, and any affected third parties including, without limitation, all persons asserting claims or encumbrances against or interests in the Real Property. The transactions contemplated by this Sale Order shall be specifically performable by, enforceable against and binding upon, the Liquidation Agent, Thomas Gity, Sr., and their respective heirs, successors, and assigns.
20. Pursuant to the Consent [ECF No. 47] and Final Judgment [ECF No. 51], Thomas Gity, Sr. thereby and hereby assigns to the Liquidation Agent, and the Court hereby deems the Liquidation Agent to have full corporate or other power to (i) execute, deliver and perform all documents, instruments, agreements and obligations required to implement the terms of this Sale Order and close the sale of the Real Property, (ii) consummate the transactions contemplated by the Sale Contract, and (iii) take all actions necessary to authorize and approve the sale of the Real Property and the transactions contemplated by the Sale Contract.
21. No consents or approvals, other than those expressly provided for herein, are required for the Liquidation Agent to consummate the transactions contemplated by this Sale Order.

CASE NO. 20-14342-CIV-CANNON/Maynard

22. The provisions of this Sale Order are non-severable and mutually dependent. To the extent any provisions of this Sale Order conflicts with the terms and conditions of the Sale Contract, this Sale Order shall govern and control.
23. Time is of the essence in consummating the sale of the Real Property to the Buyers.
24. A certified copy of this Sale Order may be filed with the appropriate clerk and/or recorded with the county recorder to cancel the liens, claims and other encumbrances of record.
25. This Court shall retain exclusive jurisdiction to enforce the provisions of this Sale Order and the Sale Contract and to resolve any dispute concerning this Sale Order, the Sale Contract, or the rights and duties of the parties hereunder or thereunder or any issues relating to the Sale Contract and this Sale Order, including, but not limited to, the interpretation of the terms, conditions and provisions hereof and thereof, the status, nature and extent of the Real Property and all issues and disputes arising in connection with the relief authorized herein.

DONE AND ORDERED in Chambers at Fort Pierce, Florida, this 18th day of January 2022.



AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE

cc: counsel of record