

CAUSE NO. D-1-GN-24-001018

Sajid Maqsood, Trustee of the Sajid
& Joan M. Maqsood Revocable Trust, et al.,

Plaintiffs,

v.

Pride of Austin High Yield Fund I, LLC, et al.,

Defendants.

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IN THE DISTRICT COURT

TRAVIS COUNTY, TEXAS

201st JUDICIAL DISTRICT

**RECEIVER'S EMERGENCY MOTION TO ENFORCE INJUNCTION AND
STAY PROCEEDINGS OF GUESTWISER VENTURE 1, LLC**

TO THE HONORABLE DISTRICT COURT:

Gregory S. Milligan, in his capacity as the court-appointed receiver for Pride of Austin High Yield Fund I, LLC (“*POA*”) in the above-captioned action (the “*Receiver*”), by and through his undersigned counsel, files this *Emergency Motion to Enforce Injunction and Stay Proceedings of Guestwiser Venture 1, LLC*. In support, the Receiver respectfully shows the Court as follows.

SUMMARY

1. Guestwiser has violated the injunctions issued by this Court in the Receivership Order and Claims Order by filing the Violating Lawsuit in Dallas County and obtaining a TRO halting a scheduled September 3, 2024 foreclosure. The Dallas County court has scheduled a hearing on a temporary injunction for September 12, 2024. The assertion of such claims is barred by the Receivership Order and the Claims Order. Furthermore, this Court has exclusive jurisdiction over all matters involving assets of, and claims asserted against, the Receivership Estate. Accordingly, the Court should enforce its injunctions and stay the Violating Lawsuit. If Guestwiser believes it is entitled to monetary or non-monetary relief against the Receiver or Receivership Estate, it must come to this Court and request relief from the Receivership Order and Claims Order, and if granted, make any such requests for relief in this Court, not in the Dallas court.

BACKGROUND

A. The Receivership Order and the accompanying injunction

2. On May 6, 2024, this Court entered its *Amended Agreed Order Appointing Receiver* (the “**Receivership Order**”). In the Receivership Order, this Court established the POA receivership estate (the “**Receivership Estate**”) and took “exclusive jurisdiction and possession of the Receivership Assets”. Receivership Order, ¶ 1. The Receivership Order further appointed the Receiver as the receiver for all assets of POA, and declared that the assets of the Receivership Estate shall be held by the Receiver *in custodia legis*. *Id.* at ¶¶ 2-3.

3. The Receivership Order also issued broad injunctions against interference with the Receiver and the Receivership Estate. Specifically, in paragraph 31 of the Receivership Order, the Court ordered that “[a]ll persons receiving notice of this Order by personal service, electronic mail, facsimile, or otherwise ... **are hereby restrained and enjoined** from directly or indirectly taking any action or causing any action to be taken without the express written agreement of the Receiver that would”:

- Attempt to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by the Fund or which otherwise affects any Receivership Assets. *Id.* at ¶ 31(c).
- Interfere with or harass the Receiver or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estate. *Id.* at ¶ 31(h).

B. Additional injunctive relief granted by this Court

4. On June 17, 2024, the Court entered its *Order Granting Receiver’s Motion to Approve (I) Proposed Claims Verification Procedures, and (II) Claims Bar Date* (the “**Claims**

Order”). The Claims Order grants additional and explicit injunctive relief against the commencement of lawsuits against the Receiver or the Receivership Estate. Specifically, paragraph 2 of the Claims Order provides:

all holders of Claims¹ against the Receiver and Receivership Estate are hereby enjoined from commencing or continuing ...a judicial ... action or proceeding against the Receiver or Receivership Estate ... that was or could have been commenced before the entry of this order to recover a claim against POA, the Receiver, or the Receivership Estate that arose before the entry of this order.”

Claims Order, ¶ 2(a).

5. The Claims Order further enjoins “taking any action to obtain possession of any property that is part of the Receivership Estate”. *Id.* at ¶ 2(d). Additionally, the Claims Order provides that “all claimants of POA, Receiver, or Receivership Estate holding or wishing to assert any ... cause of action, or other right against the Receivership Estate must file such claims pursuant to the procedures and on or before the deadlines established by this order.” *Id.* at ¶ 3.

6. Finally, the Claims Order provides that “this Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this order.” *Id.* at ¶ 12.

C. Receiver’s attempted foreclosure of its collateral and Guestwiser’s lawsuit against the Receiver and the Receivership Estate.

7. As detailed in the *Receiver’s Second Status Report*, the Receivership Estate holds a note receivable from Guestwiser (the “*Note*”). The Note is secured by two lots, 1115 and 1117 Powhattan Street, Dallas, Texas 75215 (the “*Guestwiser Property*”). On August 8, 2024, the Receiver posted his *Notice of Substitute Trustee’s Sale*, in which he provided notice that the Guestwiser Property would be sold pursuant to a nonjudicial foreclosure sale on September 3, 2024. A copy of the Notice of Substitute Trustee’s Sale is attached as Exhibit A. Additionally, in

¹ “Claim” is defined broadly in the Claims Order (through incorporation of the definitions in the Claims Motion) to include anyone holding a claim against POA that arose prior to the commencement of the Receivership (*i.e.* “Other Claims”) or those arising after commencement of the Receivership (*i.e.* “Administrative Claims”).

furtherance of his attempt to collect on the outstanding Note, the Receiver filed a lawsuit against Guestwiser in this Court styled *Gregory S. Milligan, in his capacity as court-appointed receiver for Pride of Austin High Yield Fund 1, LLC v. Guestwiser Venture 1, LLC, Secret Light, LLC, Yehuda Berg, and Michael Berg*; cause number D-1-GN-24-004791 (the “**Travis County Lawsuit**”). Guestwiser filed a general denial in the Travis County Lawsuit on August 19, 2024.

8. On August 30, Guestwiser, Secret Light, LLC (“**Secret Light**”), Yehuda Berg (“**Y. Berg**”), and Michael Berg (“**M. Berg**”) filed their *Original Petition and Verified Application for Temporary Restraining Order and Injunctive Relief* in Dallas County District Court (the “**Violating Lawsuit**”). A copy of the Violating Lawsuit is attached as Exhibit B. The Violating Lawsuit asserts claims against POA, Robert Buchanan, and the Receiver for (i) common law fraud; (ii) statutory fraud; (iii) negligent misrepresentation; and (iv) breach of contract.

9. The claims make little sense and were a transparent attempt to halt the September 3 foreclosure sale. Fundamentally, the Violating Lawsuit asserts that prior to the Receivership, POA represented to Guestwiser that it would allow it to pay down the Note by selling off collateral and remitting the proceeds to POA. Guestwiser goes on to say that Guestwiser secured “multiple buyers” but that POA “failed to finalize the sale”. The Violating Lawsuit misunderstands the relationship of the parties. POA is Guestwiser’s lender. It is not a party to any sale transaction, and never had any obligation to “finalize” any sale. The Violating Lawsuit also asserts claims for breach of the Note. Finally, in the Violating Lawsuit, Guestwiser seeks “actual damages, exemplary damages, pre and post-judgment interest, and costs of court through appeal.”

10. On Friday August 30 at 4:00 p.m. the Dallas County District Court held a hearing on Guestwiser’s request for a Temporary Restraining Order (the “**TRO**”). The Dallas court granted the TRO and thereby restrained the Receiver from proceeding with the September 3 foreclosure

sale. A copy of the TRO is attached as Exhibit C. The Dallas court set a hearing on Guestwiser's request for a temporary injunction for September 12, 2024.

D. The Violating Lawsuit is in contravention of the injunctions issued by this Court.

11. The Violating Lawsuit plainly violates the injunctions in the Receivership Order and the Claims Order. Specifically, the lawsuit asserts causes of action upon which it seeks to recover damages from the Receivership Estate, and is doing so outside the Court-approved claims process. The Claims Order clearly provides that no party can commence a judicial proceeding “that was or could have been commenced before the entry of this order to recover a claim against POA, the Receiver, or the Receivership Estate that arose before the entry of this order.” Claims Order, ¶ 2(a). Additionally, the Violating Lawsuit seeks damages (*i.e.*, money) from the Receiver and Receivership Estate, which violates the injunction in the Claims Order enjoining any person from “taking any action to obtain possession of any property that is part of the Receivership Estate”. *Id.* at ¶ 2(d). Finally, Guestwiser filed the Violating Lawsuit in Dallas County. Guestwiser had actual knowledge of the Receivership Order² and constructive knowledge of the Claims Order³, which is evidenced by the fact that it has sued the Receiver and the Receivership Estate. This Court has “exclusive jurisdiction” over the Receivership Estate, which shall not be interfered with. Receivership Order, ¶ 31(h) (“[a]ll persons receiving notice of this Order by personal service, electronic mail, facsimile, or otherwise ... ***are hereby restrained and enjoined*** from directly or indirectly taking any action or causing any action to be taken without the express written agreement

² Attached as Exhibit D is an email from the Receiver's representative, Erik White, putting Guestwiser on actual notice of the Receivership Order on May 6, 2024. The Receiver and his representatives had further conversations with Guestwiser and its representatives by telephone concerning the pendency of the receivership.

³ In any event, Guestwiser's counsel has been put on actual notice of the Receivership Order and Claims Order by email from the undersigned counsel on September 2, 2024.

of the Receiver that would ... Interfere with or harass the Receiver or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estate.”⁴.

ARGUMENT & AUTHORITIES

A. The Receivership Estate is under the exclusive custody and control of the Court through the Receiver.

12. It is well established that a court appointing a receiver has exclusive jurisdiction over the property subject to receivership. *Chimp Haven, Inc. v. Primarily Primates, Inc.*, 281 S.W.3d 629, 633 (Tex. App.—San Antonio 2009, no pet.) (first citing *Neel v. Fuller*, 557 S.W.2d 73, 76 (Tex. 1977); and then citing *Lauraine v. Ashe*, 191 S.W. 563, 565 (Tex. 1917)). The court’s power over the receivership property continues until either the court relinquishes its jurisdiction over the suit or the receiver is discharged and the property is restored to the persons who are entitled to it. *Id.* (first citing *Lauraine*, 191 S.W. at 565; and then citing *Tex. & Pac. Ry. Co. v. Johnson*, 13 S.W. 463, 466 (1890)). Further, “[a] receiver is said to be an arm or instrumentality of the court, holding possession of property for the court which appointed him.” *First S. Props., Inc. v. Vallone*, 533 S.W.2d 339, 343 (Tex. 1976) (citing *Farm & Home Sav. & Loan Ass’n v. Breeding*, 115 S.W.2d 615 (1938)).

13. During the pendency of a receivership, property in the possession of a receiver is held *in custodia legis* and is free from interference with the exclusive custody and possession which the receivership court has assumed over it. *Neel*, 557 S.W.2d at 76 (first citing *First S. Props.*, 533 S.W.2d 339; then citing *Ellis v. Vernon Ice Co. & Water Co.*, 23 S.W. 858 (Tex. 1893);

⁴ This Court also has dominant jurisdiction over the Dallas County District Court based on the Receiver’s Travis County Lawsuit, which was filed prior to the filing of the Violating Lawsuit. The Receiver reserves all rights related to any arguments concerning this Court’s dominant jurisdiction. *Curtis v. Gibbs*, 511 S.W.2d 263, 267 (Tex. 1974) (stating that the general common law rule in Texas is that the court in which suit is first filed acquires dominant jurisdiction).

then citing *Russell v. Tex. & Pac. Ry. Co.*, 5 S.W. 686 (Tex. 1887); and then citing *Ex parte Britton*, 92 S.W.2d 224 (Tex. 1936)).

14. The rule prohibiting interference with property *in custodia legis* derives from the exclusive jurisdiction which arises out of possession of the res. *First S. Props.*, 533 S.W.2d at 342–43. Nowhere is the doctrine enforced more strictly than when other courts attempt to interfere. *Id.* at 343 (first citing *Palmer v. Texas*, 212 U.S. 118 (1909); and then citing 65 Am. Jur. 2d, Receivers 996, § 174). If a court of competent jurisdiction has taken possession of or obtained jurisdiction over property, “such property is withdrawn from the jurisdiction of the courts of the other authority as effectually as if the property had been entirely removed to the territory of another sovereignty.” *Id.* (quoting *Palmer v. Texas*, 212 U.S. 118 (1909)); *see also Lauraine*, 191 S.W. at 565 (“It is furthermore essentially true that when a court of equity in a cause of which it has jurisdiction takes possession of property through a receiver, the property is withdrawn from the jurisdiction of all other courts[.]”). This rule is essential to the orderly administration of justice and to prevent conflicts between courts with jurisdiction over the same subjects and persons. *Id.* (citing *Farmer’s Loan & Trust Co. v. Lake St. Elevated Ry. Co.*, 177 U.S. 51, 61 (1900)).

15. Accordingly, the entirety of the Receivership Estate, including the money that Guestwiser seeks to recover as well as the Note that the Receiver is seeking to collect upon (and the accompanying lien it seeks to foreclose upon), is in the custody and control of the Court through the Receiver and cannot be reached by execution or other similar process without an order of this Court. If Guestwiser wishes to assert claims against the Receiver or the Receivership Estate, it should file a motion with this Court requesting leave to do so.

B. The Court has the authority to issue further orders to protect the Receivership Estate and to stay Guestwiser’s claims.

16. Where property is under the control of a court, that court has the equitable power to make such orders it deems necessary to protect that property. *See Neel*, 557 S.W.2d at 76 (holding that, when property is placed in receivership, “[t]he court ordinarily assumes responsibility for the conservation and management of the property”); *Lauraine*, 191 S.W. at 75 (holding that a receivership court’s jurisdiction “may be fully exerted in relation to all the subjects of it”); *In re Victory Energy Corp.*, 431 S.W.3d 728, 732 (Tex. App.—El Paso 2014, no pet.) (noting that where property is subject to a court’s control, “the court has the equitable power to make such orders it deems necessary to protect” that property (citing *Sommers v. Concepcion*, 20 S.W.3d 27, 36 (Tex. App.—Houston [14th Dist.] 2000, pet. denied)).

17. A receivership is in the nature of, and in effect, an injunction. 75 C.J.S. Receivers § 4. The injunction proposed by a receivership action may also serve to remove any interference from nonparties, because the receiver is the custodian for the court through which the court has sole jurisdiction over the res subject to the receivership. *See First S. Props.*, 533 S.W.2d at 342–43 (“The rule prohibiting interference with property In custodia legis is derived from the exclusive jurisdiction which arises out of possession of the res.”).

18. Further, Guestwiser cannot proceed with its claims elsewhere, because no other court can interfere with the receiver’s possession of the res without leave of the court appointing the receiver. *See id.* at 343 (“The possession of the Res vests the court which has first acquired jurisdiction with the power to hear and determine all controversies relating thereto, and for the time being disables other courts of co-ordinate jurisdiction from exercising a like power.” (quoting *Farmer’s Loan & Trust Co.*, 177 U.S. at 61)).

19. Texas courts may use these principles to bar actions and proceedings against property held by the court through a receiver. *See, e.g., Neel*, 557 S.W.2d at 76 (holding that legal title to a royalty interest in the possession of a receiver could not pass to a third party, and that the third party was not entitled to receive royalty payments from the production of minerals); *Chimp Haven*, 281 S.W.3d at 633 (holding that a court lacked jurisdiction to address a dispute regarding the ownership of chimpanzees that remained in the jurisdiction of a receivership court and dismissing the underlying cause).

20. Therefore, the Court has authority to enter orders protecting the Receiver and Receivership Estate from the Violating Lawsuit. If Guestwiser wishes to file such claims against the Receiver it should request leave from this Court to do so, and in the event that this Court grants leave, such claims should be filed in front of this Court, which has exclusive jurisdiction over the Receivership Estate.

C. Channeling injunctions are commonly used to protect receivership estates.

21. Other Texas courts have used language similar to that in the Receivership Order and Claims Order. *See, e.g., Turnover Order and Order Appointing Receiver Agreed Order Appointing Receiver* para. 18, *Wells Fargo Bank, N.A. v. TM Willow Bend Shops, LP*, Case No. 429-02006-2020 (429th Dist. Ct., Collin Cnty., Tex. Apr. 20, 2020) (“No person or entity shall file suit against Receiver, or take other action against Receiver, without an order of the Court permitting the suit or action; provided, however, that no prior court order is required to file a motion in this action to enforce provisions of this Order or any other order of the Court in this action.”); *U.S. Bank Nat’l Ass’n v. Kingwood Hotels HIX Inc.*, Case No. 17-09-10792 (284th Dist. Ct., Montgomery Cnty., Tex. Sept. 7, 2017) (“In order to promote judicial efficiency, all persons who receive actual or constructive notice of this Order are enjoined in any way from disturbing

the receivership assets or from prosecuting any new proceedings (including collection or enforcement proceedings) that involve Receiver, the receivership assets or the Hotel . . . unless such person or persons first obtains the permission of this Court.”).

22. By way of analogy, provisions similar to those in paragraphs 2 and 3 of the Claims Order and paragraph 31 of the Receivership Order are often in receivership orders entered in receivership proceedings initiated by the Securities and Exchange Commission (the “**SEC**”) which are based on a court’s power of equity. Section 21(d)(5) of the Securities and Exchange Act of 1934 provides: “In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, *any equitable relief* that may be appropriate or necessary for the benefit of investors.” 15 U.S.C. § 78u(d)(5) (emphasis added). In August of 2021, in *SEC v. Mj Capital Funding*, 2021 U.S. Dist. LEXIS 154812 (S.D. Fla. August 11, 2021), the United States District Court for the Southern District of Florida issued a receivership order containing a channeling injunction similar to those set forth in the Receivership Order and Claims Order. The *Mj Capital Funding* receivership order provided:

26. As set forth in detail below, the following proceedings . . . are stayed until further Order of this court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, . . . (b) any Receivership Property . . . (c) any of the Receivership Defendants

27. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceedings, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

28. All Ancillary Proceedings are stayed in their entirety, and all Courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the Receivership Defendants against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceeding is in effect as to that cause of action.

Id. at *17–18.

23. In *SEC v. Detroit Mem’l Partners, LLC*, 2016 U.S. Dist. LEXIS 106613 (N.D. Ga. February 11, 2016), the United States District Court for the Northern District of Georgia addressed similar stay language in a receivership proceeding. In *Detroit Memorial Partners* the receivership order provided that:

[T]he following proceedings . . . are stayed until further Order of this Court.

All civil legal proceedings of any nature, including but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other action of any nature involving: (a) the Receiver, . . . (b) any Receivership Property . . . (c) the Receivership Defendant

. . . parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance of employment of process

Id. at *2–4. In that case, the court used the anti-commencement of proceedings language in the receivership order to find claimant’s counsel in contempt of the receivership court for initiating a claim against the receivership estate.

24. In *Detroit Memorial Partners*, Mr. Baydoun, counsel to a claimant, sent Detroit Memorial Partners a litigation hold letter related to a claim alleging wrongful burial of a person. *Id.* at 5. The letter was sent to the receiver. *Id.* In response, the receiver wrote to Mr. Baydoun including a copy of the receivership order and advised Mr. Baydoun that the receivership order

barred the commencement of civil proceedings against Detroit Memorial Partners. *Id.* at *6-7. After acknowledging the existence of the receivership order, Mr. Baydoun filed an action based on the claim in Michigan State Court. *Id.* at *7-9. Thereafter, the receiver filed a contempt motion against Mr. Baydoun, among others. *Id.* at *9. The receiver argued that Mr. Baydoun and others violated the injunction in the receivership order against filing suit against Detroit Memorial Partners. *Id.* at *9-10.

25. The *Detroit Memorial Partners* court held as follows:

- a. “Paragraphs 24 and 25 of the Receiver Order are not ambiguous. Paragraph 24 plainly states that all civil legal proceedings of any nature involving [Detroit Memorial Partners] or its past or present officers and directors are stayed.” *Id.* at *18-19.
- b. “Paragraph 25 plainly provides that parties to Ancillary Proceedings are enjoined “from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.” *Id.* at *19.
- c. By bringing a claim against Detroit Memorial Partners, Mr. Baydoun violated the receivership order. *Id.* at *24-25. The court further held that an order of civil contempt could be issued to force compliance and compensate the receiver for losses suffered. *Id.* at *30.

D. If Guestwiser seeks relief related to the Receiver or Receivership Estate, it should request such relief from this Court which has “exclusive jurisdiction”.

26. Guestwiser will, no doubt, claim that it will be irreparably harmed if the Receiver is able to proceed with a foreclosure of its collateral securing the Note. Because the Dallas court granted the TRO, the Receiver is not able to foreclose in September. If Guestwiser believes it is

entitled to a temporary injunction enjoining the Receiver from proceeding with a foreclosure, it should come to this Court and seek leave from the Claims Order and Receivership Order to assert claims against the Receiver in this Court, and to have any request for a temporary injunction to be heard by this Court, which maintains exclusive jurisdiction over the Receivership Estate.

PRAYER

The Receiver respectfully requests that the Court issue an order staying the Violating Lawsuit, fees incurred from this knowing violation of the Receivership Order, and granting such other relief as the Receiver shows himself entitled.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: /s/ Trip Nix

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ATTORNEYS FOR THE RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that, on September 3, 2024, a true and correct copy of the foregoing motion was served electronically upon all counsel of record via eFileTexas.

/s/ Trip Nix

Trip Nix

EXHIBIT A

NOTICE OF SUBSTITUTE TRUSTEE'S SALE
(Pride of Austin High Yield Fund I, LLC / Guestwiser Venture I)

August 8, 2024 (the "**Effective Date**")



Notice is hereby given that a Foreclosure¹ of the Property (defined below) will be held at the date, time and place specified in this notice.

DATE OF SALE: **Tuesday, September 3, 2024** (the first [1st] Tuesday of that month).

TIME OF SALE: The earliest time at which the Foreclosure will occur is **1:00 PM (Dallas County, Texas time)**. The Foreclosure shall begin at that time or not later than three (3) hours thereafter.

PLACE OF SALE: The Foreclosure will take place at the location designated by the Commissioner's Court of Dallas County, Texas as the location where nonjudicial foreclosure sales are to take place. If no such location has been designated, the Foreclosure will take place at the location where nonjudicial foreclosure sales in Dallas County, Texas are typically conducted.

INDEBTEDNESS PROMPTING SALE: The Loan².

DEED OF TRUST CREATING LIEN THAT IS THE SUBJECT OF SALE: The Deed of Trust³.

PROPERTY BEING SOLD: The Property⁴, which has a street address of 1115 - 1117 Powhattan Street Dallas, Texas 75215, in Dallas County, Texas.

ASSIGNMENTS/TRANSFERS; NOTEHOLDER: Pursuant to certain endorsements, assignments, and/or transfers of the Loan Documents⁵, Noteholder⁶ is the current owner of the Loan Documents. However, consistent with the laws of the State of Texas and the terms and provisions contained within the Loan Documents, Noteholder reserves the right to endorse, assign and/or transfer the Loan Documents to a third-party at any time after this Notice of Substitute Trustee's Sale has been posted in Dallas County, Texas (including just prior to the nonjudicial foreclosure sale). You may contact Receiver Gregory S. Milligan (at the telephone number provided below) to determine whether Noteholder has endorsed,

¹ "**Foreclosure**" means a public nonjudicial foreclosure sale, at auction.

² "**Loan**" means the debt evidenced by the Note (defined below).

"**Note**" means that certain Real Estate Lien Note, dated January 21, 2020, executed by Borrower (defined below), payable to the order of Noteholder, as payee, in the original principal amount of \$2,905,000.00.

"**Borrower**" means Guestwiser Venture 1, LLC, a Texas limited liability company.

³ "**Deed of Trust**" means that certain Deed of Trust, Security Agreement and Fixture Financing Statement, dated effective January 21, 2020, executed and delivered by Borrower, as grantor, to Diane B. Senterfitt, as trustee for the benefit of Noteholder, as beneficiary, recorded as Instrument No. 202000021222 in the Real Property Records in Dallas County, Texas, covering, among other things, the Property.

⁴ "**Property**" means that certain real property, personal property, and general intangibles described in the Deed of Trust, the real property of which is located at the street address 1115 - 1117 Powhattan Street, Dallas, Texas 75215, in Dallas County, Texas, and more particularly described on **Exhibit "A"**, attached hereto and incorporated herein by reference.

⁵ "**Loan Documents**" means, collectively, the Loan Agreement (defined below), the Note, the Deed of Trust, and any and all other documents executed in connection therewith and/or relating in any way thereto.

"**Loan Agreement**" means that certain Commercial Loan Agreement For Construction of Improvements, dated January 21, 2020, entered into by and between Borrower and Noteholder.

⁶ "**Noteholder**" means Pride of Austin High Yield Fund I, LLC, a Texas limited liability company.

assigned and/or transferred the Loan Documents to a third-party and, if they have, to obtain the name, address, and other contact information of the successor noteholder.

ACTIVE MILITARY DUTY NOTICE: To assert and protect your rights as a member of the armed forces of the United States, if you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately.

SUBSTITUTE TRUSTEES: Pursuant to the Appointment⁷, the Substitute Trustees⁸ were each appointed a substitute trustee under the Deed of Trust. Any one (1) of the Substitute Trustees (including the Substitute Trustee that signed this Notice of Substitute Trustee's Sale) may conduct the nonjudicial foreclosure sale.

Pursuant to the Amended Agreed Order Appointing Receiver, dated May 6, 2024, in Cause No. D-1-GN-24-001018 in the 201st Judicial District County of Travis County, Texas, Gregory S. Milligan has been appointed as receiver for Noteholder and has been authorized to enforce, collect and foreclose any right, debt, lien and/or security interest belonging to Noteholder. All income of any type generated from the Property and in the possession and/or control of the receiver will be used to pay receivership costs and expenses first, and may secondarily be distributed according to the laws of the State of Texas and/or the Loan Documents, as applicable. Receiver Gregory S. Milligan may be contacted at (512) 464-1139, or c/o Westech 360, 8911 North Capital of Texas Highway, Suite 2120, Austin, Texas 78759.

The Note matured on August 1, 2021. As required by the terms and provisions contained within the applicable Loan Documents, all required notices have been provided and all applicable cure periods have expired. Accordingly, all of the (i) unpaid principal due under the Note, (ii) accrued interest due under the Note, and (iii) other amounts provided for in the Loan Documents are now due and payable in full. Noteholder has requested that any one (1) of the Substitute Trustees, each of whom is a substitute trustee under the Deed of Trust, sell the Property for cash, the proceeds of such nonjudicial foreclosure sale to be applied in accordance with the terms and provisions of the Loan Documents and applicable law.

Noteholder has further requested that any one (1) of the Substitute Trustees sell all of the components of the Property that are personal property (including general intangibles) and/or fixtures at the same time and place as the Foreclosure of the real property. Accordingly, pursuant to and in accordance with the terms of Section 9.604 of the Texas Business and Commerce Code, the Foreclosure of the personal property, general intangibles, and fixtures will be held at the same time and place as the Foreclosure of the real property.

⁷ **"Appointment"** means that certain Appointment of Substitute Trustees and Request to Act, dated August 7, 2024, recorded as Document No. 202400158826 in the Real Property Records in Dallas County, Texas.

⁸ **"Substitute Trustees"** means each of the following:

Trip Nix, Esq. of Travis County, Texas, Holland & Knight LLP, 100 Congress Avenue, Suite 1800, Austin, Texas 78701, (512) 685-6476 (telephone), trip.nix@hklaw.com (email).

Nicholas R. Miller, Esq., of Travis County, Texas, Holland & Knight LLP, 100 Congress Avenue, Suite 1800, Austin, Texas 78701, (512) 685-6457 (telephone), nick.miller@hklaw.com (email).

Sam Murphy, Esq. of Dallas County, Texas, Holland & Knight LLP, 1722 Routh Street, Suite 1500, Dallas, Texas 75201, (214) 969-2523 (telephone), Sam.Murphy@hklaw.com (email).

Chris Hamilton, Esq. of Dallas County, Texas, Holland & Knight LLP, 1722 Routh Street Suite 1500, Dallas, Texas 75201, (214) 969-1343 (telephone), Christopher.Hamilton@hklaw.com (email).

James P Hrissikopoulos, Esq. of Dallas County, Texas, Holland & Knight LLP, 1722 Routh Street Suite 1500, Dallas, Texas 75201, (214) 969-1190 (telephone), James.Hrissikopoulos@hklaw.com (email).

Therefore, at the date, time, and place set forth above, one (1) of the Substitute Trustees will sell the Property to the highest bidder for cash pursuant to the terms of the Loan Documents and applicable law.

[signature page follows]

IN WITNESS WHEREOF, this Notice of Substitute Trustee's Sale has been executed to be enforceable on the Effective Date.

By: 
Name: James P Hrissikopoulos, Esq.
Title: Substitute Trustee

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on August 8, 2024, by James P Hrissikopoulos, Esq., as substitute trustee, in the capacity herein stated.

[SEAL]




Notary Public, State of Texas

Pride of Austin High Yield Fund I, LLC
Borrower: Guestwiser Venture I, LLC
Property: 1115 - 1117 Powhattan Street, Dallas, Texas 75215 (Guestwiser Venture I)

NOTICE OF SUBSTITUTE TRUSTEE'S SALE

EXHIBIT "A"

to
Notice of Substitute Trustee's Sale

Real Property

Lots 1 and 2, in Block D/445, of Walnut Grove Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof, recorded in Volume 106, Page 186, of the Deed Records of Dallas County, Texas.

EXHIBIT "A"

Pride of Austin High Yield Fund I, LLC
Borrower: Guestwiser Venture 1, LLC
Property: 1115 - 1117 Powhattan Street Dallas, Texas 75215 (Guestwiser Venture 1)

EXHIBIT B

CAUSE NO. _____

**GUESTWISER VENTURE 1, LLC,
SECRET LIGHT, LLC, YEHUDA BERG,
and MICHAL BERG,**

Plaintiffs,

VS.

PRIDE OF AUSTIN HIGH YIELD FUND I, LLC, ROBERT BUCHANAN, and GREGORY MILLIGAN, in his capacity as the court-appointed receiver for PRIDE OF AUSTIN HIGH YIELD FUND, LLC,

Defendants.

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION AND VERIFIED APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

Guestwiser Venture 1, LLC, Secret Light, LLC, Yehuda Berg, and Michal Berg (“Plaintiffs”), file this *Original Petition and Verified Application for Temporary Restraining Order and Injunctive Relief* against Pride of Austin High Yield Fund 1, LLC, Robert Buchanan, and Gregory Milligan, in his capacity as the court-appointed receiver for Pride of Austin High Yield Fund, LLC (“Defendants”), and in support thereof respectfully shows the Court the following:

I.
RULE 47 STATEMENT

1. This is a foreclosure case due to an agreement procured by fraud. Plaintiffs secured a loan from Defendant Pride of Austin High Yield Fund 1, LLC to buy property and build a self-service hotel. Defendants made several false promises to Plaintiffs regarding how

they could repay the loan. Now, despite those assurances, Defendants are pursuing foreclosure on the loan.

2. Plaintiffs seek non-monetary injunctive relief and, to the extent it is determined Plaintiffs are entitled to monetary relief, Plaintiffs seek such relief in an amount they believe is unlikely to exceed \$1,000,000 at this time.

II. **DISCOVERY LEVEL**

3. Plaintiffs allege that discovery should be conducted under Level 3 pursuant to Texas Rule of Civil Procedure 190.4.

III. **PARTIES**

4. Plaintiff Guestwiser Venture 1, LLC (“Guestwiser”) is a Texas limited liability company with its headquarters and principal place of business in Dallas, Dallas County, Texas.

5. Plaintiff Secret Light, LLC (“Secret Light”) is a Texas limited liability company with its headquarters and principal place of business in Dallas County, Texas.

6. Plaintiff Yehuda Berg is an individual who resides in Beverly Hills, California.

7. Plaintiff Michal Berg is an individual who resides in Beverly Hills, California.

8. Defendant Pride of Austin High Yield Fund I, LLC (“Pride of Austin”) is a Texas limited liability company, and is licensed to, and does conduct business in Texas, with its headquarters and principal place of business in Austin, Travis County, Texas. Pride of Austin may be served with process by serving its registered agent as follows:

Pride of Austin Capital Partners, LLC
3600B Capital of Texas Highway, Suite 120
Austin, TX 78746

9. Defendant Robert Buchanan (“Buchanan”) is an individual who resides in Travis County, Texas and may be served with process at 1610 Hether Street, Austin, TX 7804-3314, or where he may be found.

10. Defendant Gregory Milligan, in his capacity as the court-appointed receiver for Pride of Austin High Yield Fund, LLC (“Milligan”) is an individual who resides in Travis County, Texas and may be served with process at 1901 Holiday Hills CV, Austin, Texas 78732-2074 or where he may be found.

IV. JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this matter because the relief requested herein is within the jurisdictional limits of the Court, and Plaintiffs seek non-monetary injunctive relief.

12. This Court has personal jurisdiction over Defendants because they are citizens of the State of Texas or entities formed and operating in Texas pursuant to the Texas Business Organizations Code.

13. Venue is proper in Dallas County, Texas under Section 15.001 of the Texas Civil Practice and Remedies Code because this action concerns real property in Dallas County, Texas. *Tex. Civ. Prac. & Remedies Code* § 15.011.

V. FACTUAL BACKGROUND

14. On or about January 21, 2020, Plaintiff Guestwiser executed a *Real Estate Lien Note and Deed of Trust, Security Agreement, and Fixture Financing Statement* (the “Loan”) in favor of Defendant Pride of Austin to acquire property located at 1115-1117 Powhattan St., Dallas, Texas 75215 (the “Property”).

15. Plaintiffs, who are involved in the tech industry, planned to use the Property to build a self-service hotel (the “Project”).

16. Due to delays from the COVID-19 global pandemic, the Project stalled due to difficulty in obtaining materials and labor.

17. Consequently, Plaintiffs were unable to make payments on the Loan.

18. Recognizing the impact of the pandemic, Pride of Austin, through Buchanan, offered an alternative payment solution. Specifically, Pride of Austin, by and through Buchanan, promised to Plaintiffs that they could sell modules in order to pay down the balance of the Loan.

19. Relying on this promise, Plaintiffs found multiple buyers for the modules and connected them with Buchanan. However, despite the Plaintiffs’ effort in securing multiple buyers, Buchanan failed to complete the sale of the modules, which left Plaintiffs unable to pay of the remaining loan balance.

20. Despite Defendants’ assurances and Plaintiffs’ substantial performance, Pride of Austin is now attempting to foreclose on the Property.

VI. CONDITIONS PRECEDENT

21. All conditions precedent to the maintenance of this action have occurred.

VII. FIRST CAUSE - COMMON LAW FRAUD

22. Plaintiffs incorporate by reference the above paragraphs as if fully set forth herein.

23. Defendant Buchanan, on behalf of Pride of Austin, assured Plaintiffs that he would allow them to pay down the Loan balance by selling the modules.

24. These representations were material and Plaintiffs justifiably relied on them, successfully locating several potential buyers in order to pay down the Loan balance and finish the Project.

25. Despite Plaintiffs securing multiple potential buyers, Buchanan, on behalf of Pride of Austin, failed to finalize the sale of the modules. Consequently, Plaintiffs were unable to pay down the Loan balance with the profits from the potential sale.

26. Defendants are now pursuing foreclosure of the Property, despite Buchanan's many promises that the module sales would facilitate the repayment of the Loan balance.

27. Plaintiffs have been damaged by Buchanan's fraud committed on behalf of Pride of Austin and seeks all damages available at law and in equity, including but not limited to economic and actual damages, exemplary damages, pre- and post-judgment interest, and costs of court through appeal, if any.

VIII. VIII.
SECOND CAUSE-STATUTORY FRAUD

28. Plaintiffs incorporate by reference the above paragraphs as if fully set forth herein.

29. Defendant Buchanan, on behalf of Pride of Austin, made a material representation to Plaintiffs that they could reduce the Loan balance by selling the modules.

30. Relying on this representation, Plaintiffs entered into an agreement with Buchanan, representing Pride of Austin, to find potential buyers for the modules.

31. Despite Plaintiffs securing multiple buyers, Buchanan, on behalf of Pride of Austin, did not finalize the module sales. As a result, Plaintiffs were unable to use the proceeds to pay down the Loan balance.

32. Defendants now seek to foreclose on the Property, contrary to Buchanan's repeated assurances that the module sales would enable repayment of the Loan balance.

33. Plaintiffs have been damaged by Buchanan's fraud committed on behalf of Pride of Austin and seeks all damages available at law and in equity, including but not limited to economic and actual damages, exemplary damages, pre- and post-judgment interest, and costs of court through appeal, if any, as allowed by law.

IX.
THIRD CAUSE - NEGLIGENT MISREPRESENTATION

34. Plaintiffs incorporate by reference the above paragraphs as if fully set forth herein.

35. Buchanan, on behalf of Pride of Austin, made false representations to Plaintiffs regarding the sale of the modules.

36. These representations were made during a transaction in which Defendants had a vested interest, specifically the repayment of the Loan.

37. Buchanan did not use reasonable care in making or communicating these representations to Plaintiffs.

38. Plaintiffs justifiably relied on Buchanan's representations, on behalf of Pride of Austin, by securing multiple buyers for the modules and connecting them with Buchanan to facilitate the sales.

39. Buchanan's misrepresentations, on behalf of Pride of Austin, proximately caused injury to Plaintiffs, including but not limited to economic and actual damages. Plaintiffs also seek exemplary damages, pre- and post-judgment interest, and costs of court through appeal, if any, as allowed by law.

X.
FOURTH CAUSE - BREACH OF CONTRACT

40. Plaintiffs incorporate by reference the above paragraphs as if fully set forth herein.

41. The Loan agreement is a contract between Plaintiffs and Pride of Austin.

42. The Note stipulates that a default exists under the Note if “any warranty, covenant, or representative in this Not or in any other written agreement or Loan document between the Lender and the Borrower or any Other Obligated

43. Plaintiffs and Buchanan, on behalf of Pride of Austin, entered into an agreement whereby Buchanan would permit Plaintiffs to sell modules to reduce the Loan balance, provided that Plaintiffs could secure buyers for these modules.

44. Plaintiffs tendered full performance of their obligations by finding and presenting multiple buyers to Defendant Buchanan.

45. Plaintiff’s potential buyers were ready and able to purchase the modules. However, Buchanan, on behalf of Pride of Austin, breached the agreement by failing to execute a sale of the modules to any of the potential buyers found by Plaintiffs.

46. Defendants’ breach of the agreement has caused financial damage to Plaintiffs as they were unable to pay down the balance on the loan and now are at risk of losing the Property to foreclosure by Defendants.

47. Plaintiffs seek reasonable and necessary attorneys’ fees as allowed by law.

XI.
REQUEST FOR TEMPORARY RESTRAINING ORDER
AND INJUNCTIVE RELIEF

48. Each of the above paragraphs are incorporated herein by reference.

49. Plaintiffs are entitled to injunctive relief under the Texas Civil Practice and Remedies Code Sections 65.011(1)-(3). Specifically: (1) Plaintiffs are entitled to the relief demanded, and all or part of the relief requires the restraint of acts that are harmful and injurious to Plaintiffs; (2) Defendants are about to perform, or is procuring or allowing the performance of, acts relating to the subject of the pending litigation in violation of Plaintiffs' rights; (3) the injunctive relief applied for is intended to preserve the subject matter of the suit until the suit is resolved by a judgment; and (4) Plaintiffs are entitled to a writ of injunction under the principles of equity and the laws of Texas relating to injunctions.

50. Plaintiffs respectfully request that the Court enter a temporary restraining order, and, after a hearing, enter a temporary injunction, enjoining Defendants from selling the Property at any upcoming foreclosure sale.

51. Plaintiffs also request that not later than 14 days from the date of issuance of such temporary relief as requested herein, that a hearing for a temporary injunction be held, and that upon conclusion of such hearing, that the Court convert the temporary restraining order into a temporary injunction as outlined herein. Plaintiffs further request that, on final trial on the merits, any temporary injunction be made permanent.

52. Entry of a temporary restraining order and injunctive relief as requested herein is proper and necessary because Plaintiffs have causes of action and a probable right to relief against Defendants, and Plaintiffs will suffer probable, imminent, and irreparable injuries without such relief. Pride of Austin is attempting an unjust foreclosure on the Loan despite repeated assurances from its agents and employees that there was an alternative method to pay down the Loan balance and prevent foreclosure. If Defendants are not restrained from selling the Property, Plaintiffs will suffer irreparable loss.

53. Plaintiffs request that the Court enter a temporary restraining order without notice to Defendants because Plaintiffs will continue to suffer irreparable injury, loss, or damage if the temporary restraining order is not granted. Defendants have misled Plaintiffs into pursuing buyers for modules under false pretenses and then failed to finalize the sales while moving forward with foreclosure. If not restrained, Plaintiffs will suffer irreparable damage.

54. No adequate remedy at law exists because Plaintiffs will suffer irreparable harm if Defendants are allowed to proceed with the upcoming foreclosure sale of the Property.

55. Plaintiffs are willing to post the requisite bond or cash deposit in lieu of bond to secure a temporary restraining order.

56. In support of Plaintiffs' Application for Temporary Restraining Order, the Affidavit of Yehuda Berg is attached hereto as Exhibit A.

XII. CONDITIONS PRECEDENT

57. All conditions precedent to the issuance and maintenance of this lawsuit have or will have been performed or have occurred.

XIII. ATTORNEYS' FEES

58. Each of the above paragraphs are incorporated herein by reference. Plaintiffs have retained the law firm of Harris, Finley & Bogle, P.C. to represent them in this action. Accordingly, Plaintiffs seeks recovery for their attorneys' fees and costs through trial and appeal, if any, as allowed by law.

XIV.
JURY DEMAND

59. Plaintiffs demand a trial by jury on all issues so triable. The appropriate fee is tendered herewith.

XV.
PRAYER

60. Wherefore, Plaintiffs pray that the Court grant the temporary restraining order sought herein, and upon hearing of this matter, grant the temporary injunction as set forth herein, that upon trial of this matter, Plaintiffs be awarded such other and further relief to which they may be justly entitled.

Respectfully submitted,



Michael K. Reer
State Bar No. 24088281
mreer@hfblaw.com
Desireé M. Malone
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dmalone@hfblaw.com
Cheyenne D. Haley
State Bar No. 24131883
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HARRIS, FINLEY & BOGLE, P.C.
777 Main Street, Suite 1800
Fort Worth, Texas 76102
Telephone No.: (817) 870-8700
Facsimile No.: (817) 332-6121

ATTORNEYS FOR PLAINTIFFS

EXHIBIT A

CAUSE NO. _____

**GUESTWISER VENTURE 1, LLC,
SECRET LIGHT, LLC, YEHUDA BERG,
and MICHAL BERG,**

Plaintiffs,

vs.

**PRIDE OF AUSTIN HIGH YIELD FUND
I, LLC, ROBERT BUCHANAN, and
GREGORY MILLIGAN, in his capacity
as the court-appointed receiver for PRIDE
OF AUSTIN HIGH YIELD FUND, LLC,**

Defendants.

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

DECLARATION OF YEHUDA BURG

Yehuda Berg declares as follows:

1. "My name is Yehuda Berg. I am the Managing Member of Secret Light, LLC. I am competent and qualified to make this declaration, and I have never been adjudged to be incompetent. I am over 21 years of age.
2. "I have read and am familiar with the contents of *Plaintiffs' Original Petition and Verified Application for Temporary Restraining Order and Injunctive Relief* ("Petition"). The factual statements made in all paragraphs support the requested injunctive relief in the *Petition*, are true and correct, and are based on my personal knowledge and review of documents."

My name is Yehuda Berg, my date of birth is 5-23-1972, and my address is 434 S. Almont DR, Beverly Hills CA 90211 I declare under penalty of perjury that the foregoing statements are true and correct.

Executed in Los Angeles County, State of California, on the 30th day of August, 2024.

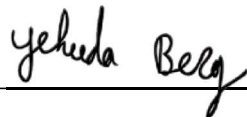


EXHIBIT C

CAUSE NO. DC-24-13930

GUESTWISER VENTURE 1, LLC,
SECRET LIGHT, LLC, YEHUDA
BERG, and MICHAL BERG,

Plaintiffs,

vs.

PRIDE OF AUSTIN HIGH YIELD FUND
I, LLC, ROBERT BUCHANNAN, and
GREGORY MILLIGAN, in his capacity
as the court-appointed receiver for PRIDE
OF AUSTIN HIGH YIELD FUND, LLC,

Defendants.

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

10th JUDICIAL DISTRICT

ORDER GRANTING EX-PARTE TEMPORARY RESTRAINING ORDER

On August 30, 2024, Plaintiffs Guestwiser Venture 1, LLC, Secret Light, LLC, Yehuda Berg, and Michael Berg (collectively, "Plaintiffs") filed their *Original Petition and Verified Application for Temporary Restraining Order and Injunctive Relief* (the "Application for Temporary Restraining Order") against Defendants Pride of Austin High Yield Fund 1, LLC, Robert Buchannan, and Gregory Milligan, in his capacity as the court-appointed receiver for Pride of Austin High Yield Fund, LLC (collectively, "Defendants"). After consideration of the pleadings, exhibits, and arguments of counsel, the Court is of the opinion that the *Application for Temporary Restraining Order* should be granted for the reasons set out below.

1. The Court finds that Plaintiffs have shown a probable right to recover on some or all of the relief sought at a final hearing. Specifically, Plaintiffs have demonstrated that:

(a) Plaintiff Guestwiser and Defendant Pride of Austin executed a real estate lien (the "Note") and a deed of trust (the "Loan") to acquire property located at 1115-1117 Powhattan St., Dallas, Texas 75215 (the "Property");

(b) Plaintiffs planned to use the Property to build a self-service hotel (the "Project");

(c) Due to delays from the COVID-19 global pandemic, the Project stalled and Plaintiffs were unable to make payments;

(d) Defendant Buchanan, on behalf of Defendant Pride of Austin, offered an alternative payment solution and promised Plaintiffs that they could sell modules to pay down the balance of the Loan;

(e) Relying on the alternative payment solution, Plaintiffs located multiple buyers and connected them with Defendant Buchanan;

(f) Defendant Buchanan, after being presented with the buyers located by Plaintiffs, failed to complete the sale leaving Plaintiffs unable to pay the remaining balance on the Loan with profits from the potential sale;

(g) Defendant Pride of Austin is now attempting to foreclose on the Property.

2. The Court further finds that Plaintiffs have demonstrated that they will suffer imminent and irreparable harm if the requested injunctive relief is not awarded by the Court. Specifically, Plaintiffs will suffer imminent and irreparable harm because Defendants are seeking to foreclose on the Property and sell the Property at the upcoming foreclosure sale.

3. The Court further finds that Plaintiffs do not have an adequate remedy at law because: (a) the damages Plaintiffs have sustained (and will continue to sustain) are uncertain and/or difficult to quantify; and (b) there is a substantial risk that, without injunctive relief, Plaintiffs' property will be sold at the upcoming foreclosure sale.

TEMPORARY RESTRAINING ORDER

It is therefore ORDERED that the Clerk of this Court shall issue a Temporary Restraining Order against Defendants Pride of Austin High Yield Fund 1, LLC, Robert Buchannan, and Gregory Milligan, in his capacity as the court-appointed receiver for Pride of Austin High Yield Fund, LLC, and their agents, servants, employees, representatives, attorneys and those persons in active concert or participation with them IMMEDIATELY ENJOINING AND PROHIBITING THEM from selling the Property at any upcoming foreclosure sale.

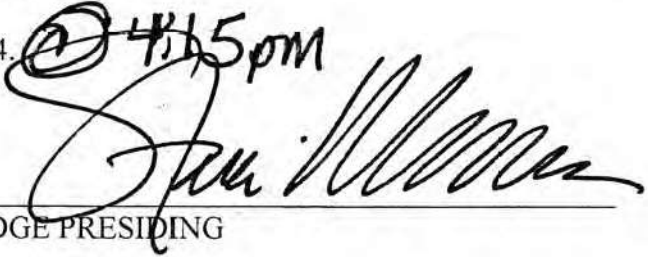
This Order shall be valid and enforceable for 14 days from the date this Order is signed or until a ruling on Plaintiffs' request for a temporary injunction, whichever occurs first.

Failure of any party to comply with this temporary restraining order may result in the offending party being held in contempt of court, which may be punishable by fine and/or time in jail (if necessary).

This order shall be effective upon execution of a bond filed with the Clerk in conformity with the law, in the amount of \$1,000, or a cash deposit in lieu of the bond for the same amount. The cash deposit may be paid by a check from Plaintiffs' attorneys. Upon execution of this order and receipt of the bond, or cash deposit in lieu thereof, the Clerk shall immediately issue a temporary restraining order in conformity with the law and the terms of this Order.

This Order shall be binding upon Defendants and each of their respective agents, servants, employees, attorneys, representatives, invitees, licensees, and assigns, and upon any and all persons in active concert or participation with Defendants upon receipt of actual notice of this Order, whether by personal service, telephone, letter, facsimile transmission, e-mail delivery, or otherwise.

It is further ordered that the parties to this cause will appear before the Court on September 12,
2024 at 3:30 o'clock Via Zoom
SIGNED this 30th day of August 2024. @ 4:15pm


JUDGE PRESIDING



STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District Courts of Dallas County, Texas do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears of record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 30th day of August, A.D., 2021.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [Signature] Deputy

EXHIBIT D

From: [ewhite](#)
To: [Nader Nugul](#); [Yehuda Berg](#)
Cc: [gmilligan](#); [Nix, Trip \(AUST - X26476\)](#)
Subject: Pride of Austin High Yield Fund I, LLC
Date: Monday, May 6, 2024 7:40:34 AM
Attachments: [image100836.png](#)
[2024.04.30 Agreed Order Appointing Receiver.pdf](#)

Nader, Yehuda,

Last week, my colleague, Greg Milligan, was appointed as receiver for the Pride of Austin High Yield Fund I, LLC ("Pride of Austin"). Attached is a copy of the signed order.

In reviewing the various fund documents, I understand that Guestwiser Venture 1, LLC is a borrower with an outstanding loan from Pride of Austin and that you are managers of Guestwiser Venture 1, LLC.

Moving forward, please direct all communications related to this loan and Pride of Austin along with any future payments to Greg, myself and Trip Nix, counsel to the receiver, including as it relates to Modular Design Concept LLC's Letter of Intent to Purchase 5-Plex Modules, the associated 10% down payment, and any future payments.

Please let us know your availability later this week or early next week to discuss the outstanding loan.

Our contact information is below:

Greg Milligan

gmilligan@harneypartners.com

Tel: [512.464.1139](tel:512.464.1139) | Mobile: [512.626.1818](tel:512.626.1818)

Trip Nix | Holland & Knight

Phone [512.685.6476](tel:512.685.6476) | Fax [512.685.6417](tel:512.685.6417)

trip.nix@hklaw.com

Thank you,

Erik

Erik White

Managing Director

Tel: [512.592.7740](tel:512.592.7740) | Mobile: [734.494.2160](tel:734.494.2160)



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CAUSE NO. D-1-GN-24-001018

Sajid Maqsood, Trustee of the Sajid Maqsood	§	IN THE DISTRICT COURT
& Joan M. Maqsood Revocable Trust; Joan M.	§	
Maqsood; Annette Amey; Gregory Bow &	§	
Simmi Mehta; George E. Burchlaw; David A.	§	
Clark; David & Stephen Clark, Trustees of the	§	
Mary Goodwin Revocable Living Trust; Jay	§	
Dirkx; Rebecca Donovan; William Dodd; Mary	§	
Dunlap; Sunnygrove, Ltd.; Rhonda & Douglas	§	
Fitzgerald; Richard Glasco; Martha Hapgood;	§	
James Harp; Julieta R. Hernandez;	§	
E.P. INITIATIVE, LLC; The beh Initiative, LLC;	§	
Janiga and Alfano Partners; Walter Johnstun;	§	
Salimuddin Khan, Trustee of the Khan Living	§	
Trust; Narayanan Krishnan; Desmond & Alice	§	
Lawler; Patrick Lawler; Jeanne P. Lucke; Avi	§	
Mozes, Trustee of the Avi & Diana Mozes Trust;	§	
Kathryn Nealis & Treasa Bruce; Greg Richards;	§	
6 Straight Arrows LLC; Cyns Hot Fund LLC;	§	
Phils Alpha Fund LLC; Francis Semmens;	§	
Ed & Jan Ueckert; William Vandersteel;	§	
and George Young,	§	
	§	
Plaintiffs,	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
Pride of Austin High Yield Fund I, LLC;	§	
CCG Capital Group, LLC; and Robert J.	§	
Buchanan,	§	
	§	
Defendants.	§	201 ST JUDICIAL DISTRICT

AGREED ORDER APPOINTING RECEIVER

Came on to be heard the Plaintiffs' Application for Appointment of Receiver and Application for Temporary Injunction. Upon hearing the evidence and argument of counsel, the Court makes the following findings and orders.

a. The Court finds that it has subject matter jurisdiction over this action and personal jurisdiction over the parties to this case.

b. The Plaintiffs are members in Pride of Austin High Yield Fund I, LLC ("POA" or "the

Fund”). Plaintiffs’ combined capital accounts represent approximately one-third of the total member investment in the Fund.

c. POA is a manager-managed limited liability company. Its designated manager is CCG Capital Group, LLC (“CCG”), which is controlled by Defendant Robert Buchanan.

d. POA’s business consists of making secured real-estate loans with capital contributed by member investors.

e. POA’s records indicate that the total investor capital is approximately sixty million dollars (\$60,000,000.00). Mr. Buchanan and CCG have made representations to Plaintiffs and others to that effect.

f. Historically the Fund has paid out quarterly distributions to its members. The members could elect to receive their distributions in cash or “reinvest” the proceeds.

g. In 2023 the Fund ceased making distributions to its members. Dozens of members including many of these Plaintiffs requested information from Mr. Buchanan and CCG about the status of the Fund and the resumption of distributions. As late as September 2023, Mr. Buchanan and CCG assured investors that the Fund was performing well and that a distribution was forthcoming. No such distribution was made. Mr. Buchanan essentially stopped responding to calls, emails and other communications, and failed to provide any information to the investors, not even tax statements, other than to eventually acknowledge by email that there would be no distributions for the second, third, or fourth quarters of 2023.

h. At least 36 lawsuits have been filed in Travis County against POA. In most cases, CCG and Mr. Buchanan are also named as defendants, and occasionally additional parties as well. Virtually all the lawsuits include a request for books and records pursuant to the Texas Business

Organizations Code and the POA company agreement, along with demands for full redemption of the investment. Mr. Buchanan and CCG routinely ignored such lawsuits for months, resulting in seven default judgments and numerous contempt findings. Finally, in late 2023, CCG and Mr. Buchanan hired a competent and reputable attorney to represent the entities, staving off additional default judgments.

i. POA hired Harney Partners (“Harney Partners”) to conduct a financial review of POA’s books and records and paid a retainer to Harney Partners (the “Retainer”). Greg Milligan and Erik White of Harney Partners delivered a preliminary report (the “Preliminary Report”) on April 15, 2024. Harney Partners applied the full amount of the \$40,000.00 Retainer to the fees and expenses Harney Partners incurred in preparing the Preliminary Report, exhausting the Retainer. The Fund still owes Harney Partners approximately \$20,000.00 related to its activities through the date of the receivership hearing.

j. The Preliminary Report revealed that POA is in far worse shape than represented by CCG and Mr. Buchanan. While Mr. Buchanan has failed to produce sufficient records to fully assess the condition of the Fund, the information was sufficient to conclude that POA’s total value is far less than \$60,000,000.00 and is likely closer to \$20,000,000.00, which is approximately one-third of the value represented by CCG and Mr. Buchanan to the Plaintiffs.

k. POA’s internal records reflected a cash balance of approximately \$2,700,000.00. With access to POA’s bank account, Harney Partners determined that the actual cash balance was approximately \$22,000.00. There is virtually no cash to redeem any investors, pay any expenses or even continue to fund committed loan obligations.


l. As disclosed in the Preliminary Report, POA has active loans to six borrowers. At least

one of the loans permits the Borrower to make additional draws up to the full committed loan amount; however, POA does not currently have cash or other liquid assets available to meet the draws.

m. Mr. Buchanan initially provided the loan files, financial and bank account information to Harney Partners, but then failed to respond to multiple requests for follow-up information. Harney Partners identified a number of related-party transactions between the Fund and CCG or one of its affiliates and requested information from Mr. Buchanan about these transactions. Mr. Buchanan and CCG provided no additional information about any such transactions.

n. Based on the evidence presented and the arguments of counsel, the Court finds that the property of POA is in danger of being lost, removed, or materially injured and that POA is insolvent or in immediate danger of insolvency.

o. The Court finds that, based on the evidence adduced at the hearing, all other available legal and equitable remedies, including the appointment of a receiver for specific property of POA, are inadequate, and that

~~(i) the Court should appoint a receiver to rehabilitate POA pursuant to Tex. Bus. Orgs. Code § 11.404;~~ 

(ii) appointment of a receiver to rehabilitate POA is inadequate and the Court should appoint a receiver to liquidate POA pursuant to Tex. Bus. Orgs. Code § 11.405.

p. The appointment of a receiver is necessary to conserve the property and business of POA and avoid damage to interested parties. Irreparable damage will ensue to the unsecured creditors of POA as a class, generally, unless there is an immediate preservation and/or liquidation of the property of POA.

q. Gregory S. Milligan of Harney Partners is appropriate and qualified to serve as Receiver.

To the extent applicable, pursuant to Tex. Civ. Prac. & Rem. Code § 64.021(a)(2) the Court finds that Mr. Milligan and Harney Partners are not a party, attorney, or other person interested in this action for appointment of a receiver.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Court hereby takes exclusive jurisdiction and possession of the Receivership Assets, as defined herein, of POA (the "Receivership Estate").
2. Until further Order of the Court, Gregory S. Milligan, of the firm HMP Advisory Holdings, LLC, dba Harney Partners, is hereby appointed to serve as the Court's appointed receiver (the "Receiver") for all assets of POA as defined herein (the "Receivership Assets"). The Receiver shall hold the Receivership Assets in custodia legis.

3. The Court appoints the Receiver pursuant to

~~a. Tex. Bus. Orgs. Code § 11.404.~~

b. Tex. Bus. Orgs. Code § 11.405.



I. Asset Freeze

4. Except as otherwise specified herein, the Receivership Assets are frozen and may not be conveyed, transferred or in any way hypothecated until further order of the Court. "Receivership Assets" means assets of any and every kind whatsoever, including without limitation all assets described in this Order, that are: (a) owned, controlled, or held, in whole or in part, by or for POA; (b) in the actual or constructive possession of POA; (c) held by an agent of POA; or (d) owned, controlled, or held, in whole or in part, by, or in the actual or constructive possession of POA, including assets that have been transferred to other persons or entities but as to which assets such persons or entities do not have a legitimate claim. Accordingly, all persons, institutions, and

entities with direct or indirect control over any Receivership Assets, other than the Receiver or law enforcement officials acting within the course and scope of their official duties, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of or withdrawing such Receivership Assets. This freeze shall include, but not be limited to, Receivership Assets that are on deposit with financial institutions such as banks, brokerage firms, and mutual funds, or other institutions.

II. General Powers and Duties of Receiver

5. Except as limited herein, the Receiver shall have all powers, authorities, rights, and privileges necessary to manage the Receivership Assets under the supervision of the Court. This includes all powers to manage the Receivership Assets that were heretofore granted to the manager under any agreement governing POA's affairs, and all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of Texas law, and this Order. This Order does not grant the Receiver any powers not authorized under applicable law.

6. The trustees, directors, officers, managers, members, investment advisors, accountants, attorneys, and other agents of POA are hereby ordered not to take any action to manage, sell, dispose of, retain or in any way exercise control over the Receivership Assets. Such persons and entities shall have no authority with respect to the Receivership Assets, except to the extent as hereafter may be expressly granted by the Court or the Receiver.

7. No person holding or claiming any position of any sort with the Fund shall possess any authority to sell, convey, manage, retain, or in any way exercise control over the Receivership Assets.

8. Subject to the specific provisions in Sections III through XI, below, the Receiver shall have the following general powers and duties:

- a. To use reasonable efforts to determine the nature, location, and value of all Receivership Assets, including, but not limited to, monies, funds, securities, credits, investments, savings, options, shares, cash, currencies, checks, accounts, vehicles, boats, equipment, fixtures, effects, goods, chattels, lands, premises, leases, notes, membership interests in any limited liability company, partnership interests, contracts, certificates of title, instruments, inheritances, interests in any trust, art, collectibles, furnishings, jewelry, personal effects, digital currencies, virtual currencies, cryptocurrencies, digital or electronic property, casino accounts, deposits, or chips, rights, and other assets, together with all rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which the Fund owns, possesses, has a beneficial interest in, or controls directly or indirectly;
- b. To take custody, control, and possession of all Receivership Assets and records relevant thereto from POA, including any materials which constitute attorney-client communications or attorney work product;
- c. To take possession, custody, and control of all Receivership Assets, and to manage, control, operate, and maintain the Receivership Assets, pending further Order of the Court;
- d. To investigate, and to the extent the Receiver deems appropriate, prosecute, enforce, and settle claims or causes of action relating to the Receivership Estate, including the right to commence, control, direct, negotiate, litigate, settle, or dismiss any and all claims belonging to the Fund or brought or threatened against the Fund;
- e. To enforce, collect, foreclose, or monetize any interest, claim, instrument, legal right, debt, lien, security interest, encumbrance, obligation, or other right belonging to the Receivership Estate;
- f. To borrow funds, incur credit, issue receiver's certificates to fund the Receivership Estate, and, subject to further order of the Court, to pledge, grant liens, and security interests on Receivership Assets to secure such obligations;
- g. To use Receivership Assets for the benefit of the Receivership Estate (i.e. POA), making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver;
- h. To take any action that, prior to the entry of this Order, could have been taken by POA with respect to managing the Receivership Assets, except as limited by this Order;
- i. To choose, engage and employ attorneys, accountants, appraisers, and any independent contractors and technical specialists, including, but not limited to, real estate agents, forensic experts, property managers, and auctioneers (collectively, "Retained Personnel") as the Receiver deems advisable or necessary in the performance of the Receiver's duties and responsibilities under the authority granted by this Order;

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CRUISE OF ACTION THAT ~~CAN~~ COLLATERALLY ATTACKS TO THE EXTENT THE RECEIVER DESIRES TO COMMENCE A PREVIOUSLY SIGNED ORDER HE WILL FIRST NEED TO REQUEST APPROVAL BY THE COURT

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- j. To take such action as necessary and appropriate for the preservation of Receivership Assets or to prevent the dissipation or concealment of Receivership Assets;
 - k. To the extent necessary to locate and identify assets, the Receiver is authorized to issue subpoenas for documents and testimony consistent with the Texas or Federal Rules of Civil Procedure;
 - l. To replace the current manager of the Fund and appoint one or more replacement managers, with such replacement managers having only the duties and authority provided to them by the Receiver in writing; and
 - m. To take such other action as may be approved by the Court.
9. The Receiver may delegate to his agents, professionals, and contractors, any of the powers of the Receiver granted to him by this Order.
10. The Receiver may seek further Orders of the Court regarding standing powers of the Receiver, operations of POA, and administration of Receivership Assets as may be deemed necessary to conserve the Receivership Assets, secure the best interests of creditors, investors, and other stakeholders of POA, and protect the interests of the Receiver.

III. Access to Information

11. The past and/or present officers, directors, agents, managers, general and limited partners, trustees, members, attorneys, accountants, and employees of the Fund, specifically including but not limited to Robert Buchanan and CCG, as well as those acting in their place, are hereby enjoined, ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Assets. Such information shall include but not be limited to books, records, documents, accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, details of items deposited, and check registers), member and investor lists, title documents, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, computer files, databases and other data

compilations, including any information stored by third parties or using cloud-based services, access codes, security codes, passwords, safe deposit keys, combinations, and all other instruments, papers, and electronic data or records of any kind or nature, pertaining to the Receivership Assets.

12. Within ten (10) days of the entry of this Order, the person(s) formerly in control of POA, including but not limited to Mr. Buchanan and CCG, shall file with the Court and serve upon the Receiver a sworn statement, listing: (a) the identity, location and estimated value of all Receivership Assets, including contact information for the party in possession of all assets of POA, held jointly or singly, including without limitation all assets held outside the territory of the United States; (b) all employees (and job titles thereof), other personnel, attorneys, accountants, and any other agents or contractors of POA; and (c) the amount and nature of all liabilities of POA, including without limitation the names, addresses, and amounts of claims of all known creditors of POA. Such sworn statement shall include the names, addresses, telephone numbers, facsimile numbers, and e-mail addresses of the holders of any legal, equitable, or beneficial interests in such assets and the names, addresses, telephone numbers, facsimile numbers, and e-mail addresses of any financial institutions or other persons or entities holding such assets, along with the account numbers and balances. The sworn statements shall be accurate as of the date of this Order, shall be signed and verified as true and complete under penalty of perjury.

13. Within fourteen (14) days of the entry of this Order, the person(s) formerly in control of the Receivership Assets, including but not limited to CCG and Mr. Buchanan, shall file with the Court and serve upon the Receiver and all interested parties a sworn statement and certification, with complete documentation, covering the period from date of formation of POA to the present:

- a. Of all Receivership Assets, wherever located, held by or in the name of CCG, Mr. Buchanan, or one of CCG or Buchanan's affiliates or insiders, or in which they have or had any beneficial interest, or over which POA maintained or maintains and/or exercised or exercises control, including, but not limited to: (a) all securities, investments, funds, real estate, automobiles, motorcycles or other motor vehicles, watercraft, jewelry, digital assets, including but not limited to any assets contained in digital assets held at cryptocurrency exchanges, and other assets, stating the location of each; and (b) any and all accounts, including all funds held in such accounts, with any bank, brokerage, or other financial institution, or any other institution, including but not limited to casinos, held by, in the name of, or for the benefit of Mr. Buchanan, CCG, or their affiliates or insiders, directly or indirectly, or over which either of them maintained or maintains and/or exercised or exercises any direct or indirect control, or in which either of them had or has a direct or indirect beneficial interest, including the account statements from each bank, brokerage, or other financial institution;
 - b. Identifying every account at every bank, brokerage, or other financial institution: (a) over which CCG and its affiliates (as defined in the Texas Business Organizations Code), have signatory authority; or (b) opened by, in the name of, or for the benefit of, or used by, POA;
 - c. Identifying all credit, bank, charge, debit or other deferred payment card issued to or used by CCG or POA, including but not limited to the issuing institution, the card or account number(s), all persons or entities to which a card was issued and/or with authority to use a card, the balance of each account and/or card as of the most recent billing statement, and all statements for the last twelve months;
 - d. Of all assets received by POA from any person or entity, including the value, location, and disposition of any assets so received;
 - e. Of all funds received by POA. The submission must clearly identify, among other things, all investors, lenders, members, or partners, the interests they purchased or loans made, the date and amount of their investments or loans, and the current location of such funds;
 - f. Of all expenditures exceeding \$1,000 made by POA, including those made on POA's behalf by any person or entity in the preceding 12 month period;
 - g. Of all transfers of assets made by POA; and
 - h. That all books and records pertaining to POA have been turned over to the Receiver.
14. Within five (5) days of the entry of this Order, the person(s) formerly in control of POA, including but not limited to Mr. Buchanan and CCG, shall provide to the Receiver copies of POA's federal income tax returns from formation through present, with all relevant and necessary underlying documentation including but not limited to K-1s and any other information reasonably

necessary for the POA investors to document for the IRS or other taxing or accounting authorities the investment losses incurred by the POA investors.

15. POA's past and/or present officers, directors, agents, members, shareholders, employees, attorneys, accountants, debtors, creditors, managers, general and limited partners, and other appropriate persons or entities shall cooperate with the Receiver in providing information and documents required by the Receiver pertaining to the Receivership Assets, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to POA. The Receiver shall hold and control the Fund's attorney-client privilege, including for documents and communications predating this Order.

16. CCG and Mr. Buchanan are required to assist the Receiver in fulfilling his duties and obligations. As such, they must reasonably cooperate with all requests for information and documents from the Receiver regarding the Receivership Assets and administration thereof, including but not limited to information related to Fund investments in CCG affiliates. This cooperation and assistance shall include, but not be limited to: (a) providing any information or documents that the Receiver deems necessary or appropriate to the exercise of the Receiver's authority and the discharge of the Receiver's responsibilities under this Order; (b) providing any keys, including but not limited to physical, digital, and cryptographic keys, codes, device PINs, and passwords, including but not limited to account, encryption, email account, and computer passwords required to access any computer, electronic file, or telephonic data in any medium; (c) immediately advising all persons who owe money or currency of any kind to POA that all debts should be paid directly to the Receiver; (d) providing full access to all Receivership Assets; and (e) maintaining and not wasting, damaging, disposing of, or transferring in any manner any Receivership Assets.

17. If at any time Mr. Buchanan and CCG or their affiliates ceases to cooperate with the Receiver as necessary for the Receiver to fully perform his duties under this Order, the Receiver shall be entitled to immediately seek from the Court an order of contempt and such other remedies allowed by law.

IV. Access to Books and Records

18. The Receiver is authorized to take immediate possession of all bank accounts or other financial accounts, books, and records and all other documents or instruments relating to POA. All persons and entities having control, custody, or possession of any Receivership Assets, including any financial institutions, Mr. Buchanan, any employee or agent of POA, CCG, and any CCG Affiliate or Insider are hereby directed to turn such property, including but not limited to all accounts, over to the Receiver.

19. POA, as well as its agents, servants, employees, managers, attorneys, any persons acting for or on its behalf, including Mr. Buchanan, CCG, any CCG affiliate or insider, and any persons receiving notice of this Order by personal service, electronic mail, facsimile transmission, or otherwise, having possession of the property, business, books, records, accounts, or assets of POA are hereby directed to deliver the same to the Receiver, his agents, and/or employees.

20. All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody, or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, POA that receive actual notice of this Order by personal service, electronic mail, facsimile transmission, or otherwise shall:

- a. Not liquidate, transfer, sell, convey, or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of POA except upon instructions from the Receiver;
- b. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of the Court; and

- c. Cooperate expeditiously in providing information and transferring funds, assets, and accounts to the Receiver or at the direction of the Receiver.

V. Access to Real and Personal Property

21. The Receiver is authorized but not directed to take immediate possession of all personal property of POA, wherever located, including but not limited to electronically stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies, and equipment.

22. The Receiver is authorized but not directed to take immediate possession of all real property of POA, wherever located, including but not limited to all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile transmission, or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written permission of the Receiver) prohibited from: (a) entering such premises; (b) removing anything from such premises; or, (c) destroying, concealing, or erasing anything on such premises.

23. In order to execute the express and implied terms of this Order, the Receiver is authorized to change door locks to any premises. The parties to this suit, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate keys made, nor shall they have keys in their possession during the term of the receivership.

24. The Receiver is authorized to open all mail directed to POA and to inspect all mail opened prior to the entry of this Order to determine whether items or information therein fall within the mandates of this Order.

25. The Receiver is authorized to request similar assistance from any other federal, state, county, or civil law enforcement officer(s) or constable(s) of any jurisdiction.

VI. Notice to Third Parties

26. The Receiver shall promptly give notice of his appointment to all known officers, directors, agents, employees, shareholders, members, creditors, debtors, managers, attorneys, accountants, and general and limited partners of POA, as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

27. All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest in any Receivership Asset shall, until further ordered by the Court, pay all such obligations in accordance with the terms thereof to the Receiver, and its receipt for such payments shall have the same force and effect as if POA had received such payment.

28. In furtherance of his responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity, or government office that he deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estate. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver.

29. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations, or activities of any of the Receivership Assets (the "Receiver's Mail"), including all mail addressed to, or for the benefit of POA. The Postmaster shall not comply with, and shall immediately report to the Receiver, any

change of address or other instruction given by anyone other than the Receiver concerning the Receiver's Mail. Mr. Buchanan, CCG and others purporting to act on behalf of POA shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business or service, or mail courier or delivery service, hired, rented, or used by POA. No one other than Receiver shall open a new mailbox regarding POA, or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository, or courier service.

30. Subject to payment for services provided, any entity furnishing any utilities or related services to POA shall maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

VII. Injunction Against Interference with Receiver

31. All persons receiving notice of this Order by personal service, electronic mail, facsimile, or otherwise, including Mr. Buchanan and CCG, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would:

- a. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Assets; such prohibited actions include but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Assets;
- b. Hinder, obstruct or otherwise interfere with the Receiver in the performance of his duties; such prohibited actions include but are not limited to, concealing, destroying, or altering records or information;
- c. Dissipate or otherwise diminish the value of any Receivership Assets; such prohibited actions include but are not limited to, releasing claims or disposing,

transferring, exchanging, assigning or in any way conveying any Receivership Assets, enforcing judgments, assessments or claims against any Receivership Assets or the Fund, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by the Fund or which otherwise affects any Receivership Assets;

- d. Transact any of the business of the Fund or transferring any Receivership Assets to anyone other than the Receiver, except that all persons interested in the Fund may take such actions in this lawsuit as authorized by law to represent their interests in the Receivership Estate.
- e. Destroy, secret, deface, transfer, or otherwise alter or dispose of any documents of or pertaining to the Fund and to the extent any such documents are no longer in existence, fail to disclose the nature and contents of such documents and how, when, and by whom such documents were caused to no longer be in existence;
- f. Fail to notify the Receiver of any Receivership Assets, including accounts constituting Receivership Assets held in any name other than the name of the Fund, or by any person other than the Fund, or fail to provide any assistance or information requested by the Receiver in connection with obtaining possession, custody, or control of such Receivership Assets;
- g. Refuse to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their powers, duties, or authority under any order of the Court; or
- h. Interfere with or harass the Receiver or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estate.

32. The Receiver shall establish one or more custodial accounts at a federally insured bank to receive and hold all cash equivalent Receivership Assets (the "Receivership Funds").

33. The Receiver's deposit account shall be entitled "Receiver's Account, Estate of Pride of Austin High Yield Fund 1" together with the name of the action, or a title to that effect.

34. Without further order of the Court, the Receiver may liquidate, abandon, or otherwise dispose of Receivership Assets, including real estate, in the ordinary course of business. Without further order of the Court, the Receiver may liquidate, abandon, or otherwise dispose of Receivership Assets, including real estate, with a fair market value of \$25,000 or less, outside the ordinary course of business.

35. The Receiver is authorized to use the Receivership Assets and proceeds thereof to pay debts and expenses of POA that (i) have accrued prior to or during the receivership and (ii) in the sole discretion of the Receiver are essential or necessary to the operations of POA.

36. The Receiver's duties shall include, using reasonable efforts, identifying, marshaling, taking custody of, and preserving the value of the Receivership Assets and identifying appropriate dispositions of the same.

37. Upon further Order, pursuant to such procedures as may be required by the Court, the Receiver will be authorized outside the ordinary course of business to sell, abandon, and transfer clear title to real property in the Receivership Estate with a fair market value of more than \$25,000.

38. The Receiver is authorized to take all actions he deems necessary in his sole judgment to manage or maintain business operations of the Receivership Estate, including making payments to creditors, employees, and agents of the Receivership Estate and communicating with vendors, investors, governmental and regulatory authorities, and others, as appropriate.

VIII. Bankruptcy Filing

39. The Receiver is granted the sole and exclusive right to file or direct the filing of voluntary petitions for relief under Title II of the United States Code (the "Bankruptcy Code") for POA. If POA is placed in bankruptcy proceedings, the Receiver may serve as and may appoint such managers, professionals, and officers as necessary to operate POA as a debtor in possession.

IX. Implementation of Order

40. This Order Appointing Receiver shall become effective after all three of the following events have occurred:

- a. This Order Granting Receiver is signed;

b. The Receiver has posted a bond or deposit in the amount of \$ 100.00 ~~xx~~ (one hundred dollars And 00/100) with the Travis County District Clerk conditioned on faithful discharge of his duties and obedience to the Orders of the Court. Such amount may be posted as a third party bond, paid by check, or other method; and

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c. The Receiver has filed an oath in this matter with the clerk of this Court.

41. The Receiver and his Retained Personnel, acting within scope of such agency, are entitled to rely on all outstanding rules of law and Orders of the Court and shall not be liable to anyone for their own good-faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good-faith compliance with their duties and responsibilities as Receiver or Retained Personnel, including compliance with applicable law governing the collection of debt, nor shall the Receiver or Retained Personnel be liable to anyone for any actions taken or omitted by them except upon a finding by the Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and the Retained Personnel shall be and hereby are indemnified by the Receivership Estate to the fullest extent permitted under the law from any cause of action or claim related to any act or omission in connection with, relating to, or arising out of this Order and their duties exercised hereunder, except for claims related to any act or omission that is determined in a final order by this Court to have constituted a malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and Retained Personnel shall be entitled to advances from the Receivership Estate to cover actual and reasonably anticipated expenses of defending any action threatened against or brought against them as a result of any act or omission, actual or alleged, in their capacity as such. Any indemnified party shall provide an undertaking to repay promptly any amounts so paid, advanced,

or reimbursed upon the entry of a final order finding that such party was not entitled to indemnity under this Order.

42. The Court shall retain exclusive jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions alleged to have been committed in their representative capacities relative to the carrying out of duties and responsibilities of the Receiver.

43. In the event the Receiver decides to resign, the Receiver shall first give written notice to the Court and counsel for the parties herein of its intention, and the resignation shall not be effective until a successor is appointed.

44. The Receiver shall not be personally liable for any liabilities that have accrued, or will accrue to POA.

X. Insurance

45. Mr. Buchanan and CCG are ordered to immediately provide the Receiver with all available insurance information for both existing and prior insurance policies. This includes all applications, policies, riders, correspondence, endorsements, claims and other information. Persons associated with the Fund, specifically CCG and Mr. Buchanan are ordered: (1) to advise the insurance agent(s) of this Order in writing, (2) designate all authority over the policies to the Receiver, and (3) take no action with regard to terminating or modifying existing insurance policies.

46. The Receiver is hereby authorized to engage insurance brokers and consultants as necessary to properly insure the Receivership Assets. Mr. Buchanan, CCG and any other persons acting on behalf of POA shall cooperate with the Receiver with regard to identifying and maintaining existing insurance policies on the Receivership Assets.

XI. Recommendations and Reports

47. The Receiver is authorized, empowered, and directed to develop a plan for the fair, reasonable, and efficient preservation and/or disposition of assets as quickly as possible using his best judgment regarding the sale of the principal real estate assets (the “Preservation / Liquidation Plan”).

48. Within sixty (60) days of the entry date of this Order, and based upon the best information available to the Receiver, the Receiver shall file the Preservation/Liquidation Plan in the above-captioned action, with service copies to counsel of record, to allow the Court to evaluate the best course of action for the preservation and liquidation of the Receivership Assets. Such plan shall contain a list of all members and former members of POA, the percentage ownership held by each member, the total funds invested by each member, with separate amounts for direct capital investment and reinvested (i.e. unreceived) distributions. For all former members, in addition to the information above, the date the investor’s interest was redeemed, the stated value of the member’s capital account at the time of redemption, the total cash distributions received by the member as of the time of redemption, and the total paid by the fund in redemption of the member’s interest.

49. Within thirty (30) days after the end of each calendar quarter, beginning with the calendar quarter ending September 30, 2024, the Receiver shall file and serve a full report and accounting of each Receivership Estate (the “Quarterly Status Report”), reflecting (to the best of the Receiver’s knowledge as of the period covered by the report) the existence, value, and location of all Receivership Assets, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estate.

50. The Quarterly Status Report shall contain the following:

- a. A summary of the operations of the Receiver;

- b. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the Receivership Estate;
- c. A schedule of all the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the Receivership;
- d. A description of all known Receivership Assets, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
- e. A list of all known creditors with their addresses and the amounts of their claims;
- f. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.
- g. Expenses incurred by the Receiver, including his own fees and fees of Retained Personnel, during that quarter.

XII. Fees, Expenses and Accountings

51. The Receiver need not obtain approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the administration and operation of the Receivership Estate. Further, prior approval is not required for payments of applicable federal, state, or local taxes owed by POA.

52. The Receiver is authorized to solicit and engage Retained Personnel to assist him in carrying out the duties and responsibilities described in this Order, without further order of the Court.

53. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estate without prior approval, but with full quarterly disclosure to the parties and to the Court as part of the Quarterly Status Report. The Receiver is authorized, without further order of the Court, to pay the Receiver's and the Retained Personnels' fee and expense invoices as the Receiver approves them and funds are available. The Quarterly Status Reports shall reflect all such payments and include a list of the professionals and personnel that provided services, the number of professional and personnel hours incurred,

the rates charged, and the expenses paid (the "Personnel Report"). Any objections to a Personnel Report must be filed on or before the tenth (10th) calendar day following the date when the Quarterly Status Report containing the Professional Report was filed. If there are no objections to the Professional Report, the compensation and expense reimbursement in the Professional Report is allowed on a final basis and not subject to further order, review, or objection. The Court shall decide any objections to any Professional Report that are not consensually resolved by the parties.

54. The Receiver shall be entitled to fees at a rate of \$650.00 per hour, paid from the Receivership Estate and subject to the Personnel Report disclosure and objection procedure detailed above. The Receiver anticipates that Erik White, a Managing Director in Harney Partners, will assist on the engagement at a rate of \$550.00 per hour, and any other members of Harney Partners working on the engagement shall be charged at a rate not to exceed \$400.00 per hour, depending on experience and qualifications. The Receiver is further authorized to reimburse Harney Partners from the Receivership Estate for its reasonable legal fees and expenses incurred in reviewing and negotiating this Order and any other matter involving Harney Partners in this case, as distinguished from the Receiver and the Fund which will have separate counsel. Any persons advancing funds to the Receiver or otherwise expending funds at the Receiver's request for the direct benefit of the Receivership Estate following entry of this order shall be entitled to an administrative priority claim in the Receivership Estate for repayment of such amounts, before distributions to any equity holders.

55. At the close of the Receivership, the Receiver shall submit a Final Accounting, which shall include a report of all sums paid to the Receiver and Retained Personnel pursuant to the Order.

56. All such fees and expenses of the Receiver, including all amounts due to the Receiver or Retained Personnel, shall be accorded priority to the maximum extent provided by applicable law.

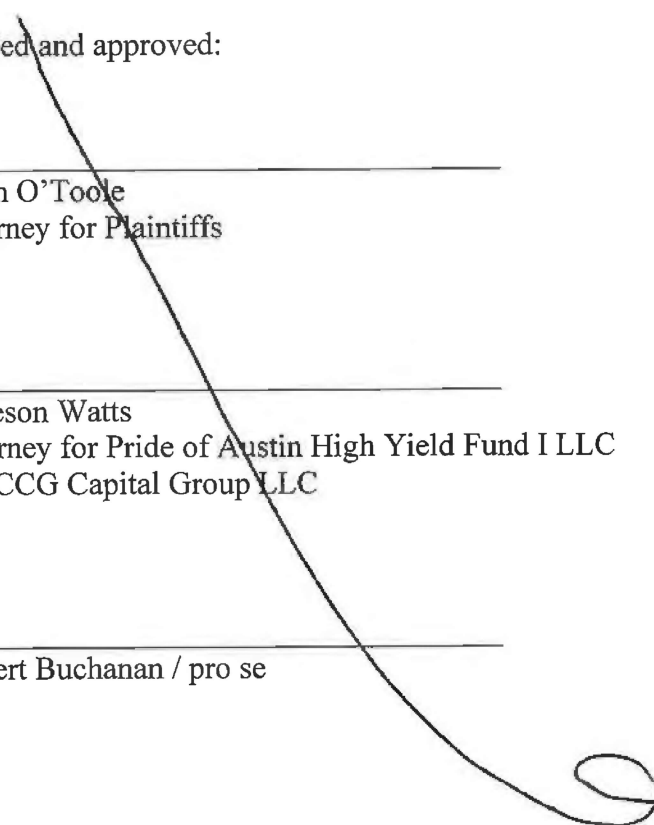
57. Further, this Order shall constitute a lien upon the Receivership Assets including, but not limited to, any real property owned by POA to secure the compensation of Receiver and Retained Personnel. Such lien shall be properly perfected upon the filing of this Order in the Public Records of Travis County, Texas.

Date signed April 30, 2024


HONORABLE JUDGE PRESIDING

AMY CLARK MEACHUM

Agreed and approved:



Brian O'Toole
Attorney for Plaintiffs

Jameson Watts
Attorney for Pride of Austin High Yield Fund I LLC
and CCG Capital Group LLC

Robert Buchanan / pro se

Automated Certificate of eService

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Tammy Greenblum on behalf of William Nix

Bar No. 24092902

tammy.greenblum@hklaw.com

Envelope ID: 91571658

Filing Code Description: Motion (No Fee)

Filing Description: RECEIVER'S EMERGENCY MOTION TO ENFORCE INJUNCTION AND STAY PROCEEDINGS OF GUESTWISER VENTURE 1, LLC

Status as of 9/3/2024 2:14 PM CST

Associated Case Party: PRIDE OF AUSTIN HIGH YIELD FUND I, LLC

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Jameson Watts		jameson.watts@huschblackwell.com	9/3/2024 11:07:10 AM	SENT
Dee Baatz		dee.baatz@huschblackwell.com	9/3/2024 11:07:10 AM	SENT
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Case Contacts

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Tammy Greenblum on behalf of William Nix

Bar No. 24092902

tammy.greenblum@hkllaw.com

Envelope ID: 91571658

Filing Code Description: Motion (No Fee)

Filing Description: RECEIVER'S EMERGENCY MOTION TO ENFORCE INJUNCTION AND STAY PROCEEDINGS OF GUESTWISER VENTURE 1, LLC

Status as of 9/3/2024 2:14 PM CST

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Associated Case Party: Chiara Bercu

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Tammy Greenblum on behalf of William Nix

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Envelope ID: 91571658

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Associated Case Party: JUDY ARIZPE

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