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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

GINA CHAMPION-CAIN AND ANI
DEVELOPMENT, LLC,

Defendants, and

AMERICAN NATIONAL
INVESTMENTS, INC.,

Relief Defendant.

Case No.: 3:19-cv-1628-LAB-AHG

**ORDER SETTING BRIEFING
SCHEDULE AND HEARING ON
MOTION**

[ECF No. 440]

1 On August 28, 2020, Receiver Krista L. Freitag (the “Receiver”) filed a Motion to
2 Amend Order Granting Receiver’s Motion for Approval of Sale of 737 Windemere Court
3 Property (the “Motion to Amend”). ECF No. 440.

4 The Motion to Amend concerns the Court’s August 21, 2020 Order Granting
5 Receiver’s Motion for Approval of Sale of 737 Windemere Court Property (the “Approval
6 Order”), in which the Court approved the sale of real property within the receivership estate
7 to buyer Brent Zambon. ECF No. 434. In the Approval Order, the Court also ordered a
8 particular distribution of the sale proceeds from escrow at the close of sale. *Id.* at 9-10.

9 In the Motion to Amend, the Receiver reports that, after filing the motion seeking
10 approval of the sale of the 737 Windemere Court Property (the “Property”), she learned
11 that a disputed Deed of Trust recorded against the Property and another receivership
12 vacation rental property (750 Yarmouth Court) by investor Charles Riharb is now
13 appearing on the title of the Property, although a prior preliminary title report the Receiver
14 obtained did not show the disputed Deed of Trust. ECF No. 440-1 at 4.

15 To resolve the dispute and clear the Property title prior to sale closing, the Receiver
16 proposes that \$1,105,000—the Receiver’s estimate of the maximum amount Mr. Riharb
17 could recover if he were successful in establishing a valid Deed of Trust on both
18 properties—be set aside by the Receiver and not distributed pending the resolution of the
19 dispute with Mr. Riharb, either through settlement or order of the Court. *Id.* at 6. The
20 Receiver further requests that the Court’s Approval Order be amended to provide that the
21 sale of the Property is free and clear of Mr. Riharb’s disputed Deed of Trust, and to approve
22 the Receiver’s proposal to set aside \$1,105,000 in receivership funds pending resolution of
23 the dispute. *Id.* at 8-9. Mr. Riharb has not yet responded to the Receiver’s proposal, so the
24 Court treats it as opposed. *Id.* at 6.

25 Additionally, the Receiver acknowledges that the Motion to Amend was filed one
26 day after the August 27, 2020 deadline to file sale-related motions in time for the hearing
27 set on September 18, 2020. ECF No. 440 at 2-3. *See also* ECF No. 407. For that reason,
28 the Receiver requests that the Court permit the Motion to Amend to be heard on

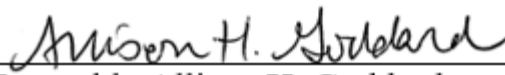
1 September 18, 2020, but agrees to a shortened deadline to file her reply to any oppositions
2 to the Motion to Amend. Upon due consideration, the Court **GRANTS** the Receiver's
3 request to hear her Motion to Amend along with the other pending sale motions set for
4 hearing on September 18, 2020, but will shorten the Receiver's reply deadline as requested.

5 Accordingly, it is hereby **ORDERED** as follows:

- 6 1. Any response in opposition to the Motion to Amend is due on or before
7 **September 11, 2020**;
- 8 2. Receiver's reply to any opposition is due on or before **September 17, 2020**;
- 9 3. The Receiver is **ORDERED** to give notice of this order to Mr. Riharb and his
10 counsel immediately to avoid prejudice and ensure he has adequate time to file
11 an opposition if he so chooses;
- 12 4. The Court will hear the Motion to Amend during the hearing previously set for
13 **September 18, 2020** at **2:00 p.m.** in **Courtroom 3B** in the Edward J. Schwartz
14 United States Courthouse, located at 221 West Broadway, San Diego, California
15 92101.

16 **IT IS SO ORDERED.**

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18 Dated: August 18, 2020

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21 Honorable Allison H. Goddard
22 United States Magistrate Judge
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