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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 GRANTING RECEIVER’S
MOTION TO AMEND ORDER
GRANTING RECEIVER’S MOTION
FOR APPROVAL OF SALE OF 737
WINDEMERE COURT PROPERTY**

[ECF No. 440]

1 Before the Court is the Receiver’s Motion to Amend Order Granting Receiver’s
2 Motion for Approval of Sale of 737 Windemere Court Property (the “Motion to Amend”).
3 ECF No. 440. For the reasons that follow, the Court **GRANTS** the Motion to Amend.

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

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

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

25 Initially, Mr. Riharb filed a limited opposition to the Motion to Amend, along with
26 an evidentiary objection to certain statements in the Receiver’s Declaration filed in support
27 of the Motion to Amend. *See* ECF Nos. 458, 459. Mr. Riharb sought to have his lien on the
28 Property “attach in the same validity and priority to the proceeds of its sale that are to be

1 maintained in a separate bank account by the receiver, with monthly statements sent to Mr.
2 Riharb pending final adjudication of Mr. Riharb’s claim thereto (or settlement with the
3 receiver subject to approval by the Court)[.]” ECF No. 458 at 2. The Receiver filed a Reply
4 on September 17, 2020 (ECF No. 460), and the matter was set for hearing on
5 September 21, 2020. ECF No. 456.

6 However, on September 18, 2020, Mr. Riharb filed a Notice of Settlement of his
7 claim with the Receiver,¹and withdrew his limited opposition to the Motion to Amend.
8 ECF No. 463. Accordingly, the Court vacated the hearing on the Motion to Amend and
9 took the matter under submission.

10 In light of the lack of opposition to the Motion to Amend, and because the Court
11 finds the requested amendment serves the goal of the efficient and orderly administration
12 of the estate for the benefit of all creditors, the Court **GRANTS** the Motion to Amend
13 Order Granting Receiver's Motion for Approval of Sale of 737 Windemere Court Property.
14 ECF No. 440. Accordingly, the Court’s August 21, 2020 Order Granting Receiver’s
15 Motion for Approval of Sale of 737 Windemere Court Property (ECF No. 434) is hereby
16 **AMENDED** and supplemented as follows:

17 1. The Deed of Trust and Assignment of Rents in favor of Charles Riharb (San
18 Diego County Recorder Doc # 2019-0376706), as well as any other liens or claims of
19 Mr. Riharb, are removed from title to the receivership property located at 737 Windemere
20 Court, San Diego (“Windemere Court Property”).

21 2. Until such time as Mr. Riharb's claims to the Windemere Court Property have
22 been resolved, either by settlement or order of the Court, the Receiver shall set aside and
23 not distribute the sum of \$599,000 in receivership estate funds.

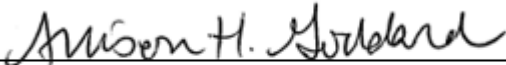
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27 ¹ The settlement of Mr. Riharb’s claim is still subject to Court approval, and counsel for
28 the Receiver and Mr. Riharb are currently preparing a stipulation for a joint motion to
approve the settlement. ECF No. 463 at 2.

1 All other aspects of the Court's Order Granting Receiver's Motion for Approval of
2 Sale of 737 Windemere Court Property (ECF No. 434) remain unchanged.

3 **IT IS SO ORDERED.**

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5 Dated: September 24, 2020

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8 Honorable Allison H. Goddard
9 United States Magistrate Judge
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