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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 FOR APPROVAL OF  
SALE OF 1775 DIAMOND  
PROPERTY**

**[ECF No. 684]**

**I. BACKGROUND**

As described in prior orders, *see, e.g.*, ECF Nos. 54, 162, 163, this is an action brought by the Securities and Exchange Commission (“SEC”) against Defendants ANI Development, LLC (“ANI Development”) and Gina Champion-Cain and Relief Defendant American National Investments, Inc. (“ANI Inc.”), alleging violations of federal securities laws based on a purportedly fraudulent liquor license loan scheme. ECF No. 1.

1 On September 3, 2019, the Court established an equitable receivership and appointed  
2 Krista L. Freitag (“Receiver”) as a permanent receiver of ANI Development and ANI Inc.,  
3 authorizing her to take control over all funds and assets owned, managed, or in the  
4 possession or control of the receivership entities. *See* ECF No. 6 at 14-16. In that role, the  
5 Receiver acts under the control and direction of the Court to facilitate the “orderly and  
6 efficient administration of the estate . . . for the benefit of creditors.” *SEC v. Hardy*, 803  
7 F.2d 1034, 1038 (9th Cir. 1986). *See also Atl. Tr. Co. v. Chapman*, 208 U.S. 360, 370  
8 (1908) (explaining that a motion to appoint a receiver to take charge of property is “to the  
9 end that the property might be cared for and preserved for all who had or might have an  
10 interest in the proceeds of its sale. . . . Immediately upon such appointment and after the  
11 qualification of the receiver, the property passed into the custody of the law, and  
12 thenceforward its administration was wholly under the control of the court by its officer [],  
13 the receiver.”). On December 11, 2019, the presiding judge in this action, Judge Burns,  
14 granted the parties’ Joint Motion (ECF No. 156) to give limited consent to the undersigned  
15 to hear and directly decide all motions filed in this action to approve sales of receivership  
16 assets. ECF No. 160. *See also* 28 U.S.C. § 636(c); CivLR 72.1(g). All property sale motions  
17 are set before the undersigned pursuant to that grant of consent.

18 On June 8, 2021, the Receiver filed the present Motion for Approval of Sale of 1775  
19 Diamond Property (the “1775 Diamond Motion”). ECF No. 684. The motion concerns one  
20 of the residential real properties within the receivership estate, a condominium located at  
21 1775 Diamond Street, #301, San Diego, California 92109 (the “1775 Diamond Property”).  
22 *See* ECF No. 684-1 at 5; ECF No. 76-2 at 6 (listing the 1775 Diamond Property in the  
23 Preliminary Real Estate and Liquor License Asset Schedule filed on October 3, 2019).

24 On June 10, 2021, the Court entered an order setting a briefing schedule and a  
25 July 8, 2021 hearing on the 1775 Diamond Motion. ECF No. 685. The Court set a deadline  
26 of June 22, 2021 for responses in opposition to the motion, and noted that “[i]f no  
27 opposition is filed by the deadline, and the overbid submission deadline has passed with  
28 no overbids, the Court may take the motion under submission without oral argument.” *Id.*

1 at 2. No opposition was filed. Further, bid qualifications from prospective bidders seeking  
2 to submit overbids pursuant to the notice and auction process set forth in 28 U.S.C. §§ 2001  
3 and 2002 (described in more detail below) were due by July 6, 2021. *See* ECF No.  
4 684-1 at 11; ECF No. 693 at 2. The Receiver filed a Notice of Non-Receipt of Qualified  
5 Overbids regarding the 1775 Diamond Motion on July 7, 2021. ECF No. 693. Accordingly,  
6 the Court vacated the hearing and took the motion under submission on July 7, 2021. ECF  
7 No. 694.

8 For the reasons explained more fully below, the Court **GRANTS** the 1775 Diamond  
9 Motion.

## 10 **II. LEGAL STANDARD**

11 “[I]t is a recognized principle of law that the district court has broad powers and  
12 wide discretion to determine the appropriate relief in an equity receivership.” *SEC v.*  
13 *Lincoln Thrift Ass’n*, 577 F.2d 600, 606 (9th Cir. 1978). Where a district court sits in equity,  
14 “[u]nless a statute in so many words, or by a necessary and inescapable inference, restricts  
15 the court’s jurisdiction in equity, the full scope of that jurisdiction is to be recognized and  
16 applied. ‘The great principles of equity, securing complete justice, should not be yielded  
17 to light inferences, or doubtful construction.’” *Porter v. Warner Holding Co.*, 328 U.S.  
18 395, 398 (1946).

19 “[A] district court’s power to supervise an equity receivership and to determine the  
20 appropriate action to be taken in the administration of the receivership is extremely broad.”  
21 *Hardy*, 803 F.2d at 1037. As part of this broad discretion, the district court sitting in equity  
22 and having custody and control of property “has power to order a sale of the same in its  
23 discretion. The power of sale necessarily follows the power to take control of and to  
24 preserve property[.]” *SEC v. Am. Capital Investments, Inc.*, 98 F.3d 1133, 1144 (9th Cir.  
25 1996), *abrogated on other grounds by Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83,  
26 93-94 (1998) (quoting 2 Ralph E. Clark, Treatise on Law & Practice of Receivers § 482  
27 (3d ed. 1992)). If the court approves an equitable receiver’s proposed property sale, the  
28 sale “does not . . . purport to convey ‘legal’ title, but rather ‘good,’ equitable title enforced

1 by an injunction against suit.” *Id.* (citing 2 Clark, Treatise on Law & Practice of Receivers,  
2 §§ 342, 344, 482(a), 487, 489, 491).

3 Pursuant to 28 U.S.C. § 2001(a), realty in the possession of an appointed receiver is  
4 subject to a public sale process, “upon such terms and conditions as the court directs.”  
5 28 U.S.C. § 2002 further requires that notice be published once a week for at least four  
6 weeks prior to the sale in at least one newspaper regularly issued and of general circulation  
7 in the county, state, or judicial district where the realty is located.<sup>1</sup> These safeguards of  
8 notice and opportunity to submit overbids help to ensure that the sale is able to fetch the  
9 best price possible, which is consistent with the principle that “a primary purpose of equity  
10 receiverships is to promote orderly and efficient administration of the estate by the district  
11 court for the benefit of creditors.” *Hardy*, 803 F.2d at 1038. *See also United States v.*  
12 *Grable*, 25 F.3d 298, 303 (6th Cir. 1994) (noting that “the intent of” the requirement in 28  
13 U.S.C. § 2001 that property be sold in the county in which the land is situated is “to bring  
14 a better price at the sale”).

### 15 III. DISCUSSION

#### 16 A. Background of the Property and Proposed Sale

17 The 1775 Diamond Property was purchased in June 2016 by the Gina Champion  
18 Cain Revocable Trust for \$300,000. ECF No. 684-1 at 5. In August 2016, ownership was  
19 then transferred first to 6050 El Cajon Blvd LLC and, days later, to current owner (and  
20 receivership entity) 2466 1st Avenue LLC. *Id.*

21 At the time of the Receiver’s appointment, the condominium was leased to and  
22 occupied by a former employee of Defendant ANI Development, LLC (“ANI”). *Id.* The  
23 ANI employee stopped paying rent shortly after the Receiver’s appointment, but the  
24 Receiver’s efforts to evict the tenant were delayed due to the COVID-19 eviction  
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26  
27 <sup>1</sup> 28 U.S.C. § 2001 also provides for a private sale process under subsection (b), but the  
28 requirements of that subsection are more stringent. The Receiver does not propose a private  
sale here.

1 moratorium. *Id.* The Receiver and the tenant eventually reached an agreement for the tenant  
2 to vacate the property in March 2021. *Id.*

3 Following her appointment, the Receiver and her staff analyzed the value of the 1775  
4 Diamond Property by reviewing automated valuation scores and a survey of market-  
5 comparable properties. *Id.* The Receiver consulted with multiple licensed brokers about the  
6 value of the property and the terms of a potential listing agreement, ultimately selecting  
7 Pacific Pines Real Estate (“Broker”) and listing the property for sale at \$419,000 on  
8 April 12, 2021. *Id.*

9 Broker marketed the 1775 Diamond Property by creating marketing flyers and  
10 listing the property on various websites, including local MLS. *Id.* at 5-6. There was  
11 significant interest in the property, and two offers were received. Through Broker, the  
12 Receiver negotiated terms with prospective buyers, and the property went into escrow on  
13 or around May 24, 2021 at the full list price of \$419,000 with Abdullah Hafid (“Buyer”).  
14 *Id.* at 6. The Receiver and Buyer executed a California Residential Purchase Agreement  
15 and Joint Escrow Instructions (“Purchase Agreement”), along with an Addendum making  
16 court approval of the sale a condition to closing and providing for the overbid and auction  
17 process required by 28 U.S.C. §§ 2001 and 2002. *See* ECF No. 684-3. Buyer has deposited  
18 \$12,570 into escrow. ECF No. 684-1 at 6.

### 19 **B. Proposed Procedures and Distribution**

20 In the motion seeking approval of the sale, the Receiver proposed compliance with  
21 the overbid and auction process mandated by 28 U.S.C. §§ 2001 and 2002 by publishing  
22 the following notice in the San Diego Union-Tribune once a week for four weeks:

23 In the action pending in U.S. District Court for the Southern District of  
24 California, Case No. 19-CV-01628-LAB-AHG, Securities and Exchange  
25 Commission v. Gina Champion-Cain, et al., notice is hereby given that the  
26 court-appointed receiver will conduct a public auction for the real property  
27 located at 1775 Diamond Street, #301, in San Diego County, California. Sale  
28 is subject to Court confirmation after the auction is held. Minimum bid price  
is at least \$424,000. The auction will take place on July 9, 2021 at 1:30 p.m.  
in front of the entrance to the United States Courthouse, 221 W. Broadway,

1 San Diego, California or as otherwise determined by the Court. To be allowed  
2 to participate in the auction, prospective purchasers must meet certain bid  
3 qualification requirements, including submitting a signed purchase and sale  
4 agreement, an earnest money deposit of \$13,850, and proof of funds. All  
5 bidders must be qualified by 5:00 p.m. PT on July 6, 2021, by submitting the  
required materials to the receiver at 401 W. A Street, Suite 1830, San Diego,  
California, 92101.

6 ECF No. 684-1 at 11-12. For those interested in qualifying as bidders, the notice also  
7 provided a phone number and email address for the relevant point of contact. *Id.*

8 As previously noted, the Receiver filed a Notice of Non-Receipt of Qualified  
9 Overbids regarding the 1775 Diamond Property on July 7, 2021. ECF No. 693. In the  
10 Notice, the Receiver informs the Court that, after filing the 1775 Diamond Motion, and in  
11 addition to publishing the above notice in the San Diego Union-Tribune as proposed, she  
12 posted notice of the Motion on the receivership website anireceivership.com, and continued  
13 to market the property through Broker and notify potential purchasers about the  
14 opportunity to submit an overbid by July 6, 2021. *Id.* at 2. No overbids were submitted by  
15 the deadline. *Id.* Therefore, Abdullah Hafid remains the intended Buyer.

16 Turning to the proposed distribution of the \$419,000 purchase price, the Receiver  
17 estimates that the receivership estate will owe approximately \$350 in property taxes after  
18 closing. ECF No. 684-1 at 6. The Receiver also estimates that costs of sale including  
19 escrow, title and recording fees will be approximately \$3,500. *Id.* Broker's commission  
20 pursuant to the listing agreement is \$16,760, or 4% of the sale price, with 2.5% of the  
21 commission going to Buyer's broker. *Id.* The 1775 Diamond Property is not encumbered  
22 by any debt. Based on these estimates, the Receiver anticipates that the net sale proceeds  
23 for the receivership estate will be approximately \$398,400. *Id.*

### 24 **C. Court Approval of Procedures and Proposed Sale**

25 The Court has reviewed the documents submitted by the Receiver in support of the  
26 1775 Diamond Motion, including the Purchase Agreement, and finds the purchase price of  
27 \$419,000 to be fair and reasonable. This price exceeds the June 2016 purchase price of the  
28 property by \$119,000, representing a return of approximately 39%. Through Broker, the

1 Receiver was able to obtain an offer at the full list price for the property. Additionally, the  
2 proposed total commission of 4% of the gross sales price, with 2.5% going to Buyer’s  
3 broker, is within the range of industry standards. The Court further finds the Receiver has  
4 demonstrated that Broker adequately marketed and advertised the property to be sure to  
5 fetch fair market value for the property. *See* ECF No. 684-1 at 5-6; ECF No. 684-2, Freitag  
6 Decl. ¶ 4.

7 As for the procedures followed, the Court finds that all of its uniform property sale  
8 procedures have been satisfied. *See* ECF No. 219. The Receiver’s publication of notice  
9 seeking qualified overbids in the San Diego Union-Tribune, in addition to the solicitation  
10 of overbids through the receivership website and continued efforts to market the property,  
11 establish that the Receiver satisfied the public sale and auction procedures set forth in  
12 28 U.S.C. §§ 2001 and 2002, which are designed to ensure that the best purchase price for  
13 realty within the receivership is obtained. Upon review of the factual history and the  
14 Purchase Agreement itself, the Court finds the Purchase Agreement was negotiated at  
15 arm’s-length and, further, that the Receiver implemented sufficient safeguards by way of  
16 the notice and overbid process to garner the highest possible price for the property. The  
17 Court is thus satisfied that the intent of the statutory scheme—to ensure that the best and  
18 highest possible price is paid for property within the receivership estate—has been fulfilled.

19 Based on these considerations, and noting in particular the lack of any opposition to  
20 the 1775 Diamond Motion, the Court finds the Receiver has sufficiently established that  
21 the proposed sale of the 1775 Diamond Property and proposed distribution of the sale  
22 proceeds are consistent with principles of equity and the goal of a receivership to ensure  
23 the orderly and efficient administration of the estate for the benefit of creditors. *See Hardy*,  
24 803 F.2d at 1038.

#### 25 IV. CONCLUSION

26 Having considered the Receiver’s Motion for Approval of Sale of 1775 Diamond  
27 Property (the “Motion”) (ECF No. 684) on its merits, and noting that there is no opposition  
28 thereto, the Court **GRANTS** the Motion, and **APPROVES** the proposed sale of the

1 condominium located at 1775 Diamond Street, #301, San Diego, California 92109, as  
2 described in the Residential Purchase Agreement and Joint Escrow Instructions attached  
3 as Exhibit A to the Declaration of the Receiver (ECF No. 684-3), by Krista L. Freitag, as  
4 receiver, to Abdullah Hafid or his designee (“Buyer”). The purchase price of \$419,000 for  
5 the 1775 Diamond Property is confirmed and approved.

6 The Court further **ORDERS** the proceeds of the sale to be distributed from escrow  
7 at the close of sale as follows:

8 (1) The Receiver is authorized to pay the property taxes, which are estimated to  
9 be \$350 (with the exact amount to be determined at closing);

10 (2) The Receiver is authorized to pay the costs for title, escrow, and recording,  
11 which are estimated to be \$3,500 (with the exact amount to be determined at closing);


12 (3) After the aforementioned estimated amounts are paid, along with the  
13 commission owed to the Receiver's broker, the net sale proceeds, which are estimated to  
14 be approximately \$398,400 (with the exact amount to be determined at closing), shall be  
15 paid to the receivership estate; and

16 (4) The Receiver is immediately authorized to complete the sale transaction,  
17 including executing any and all documents as may be necessary and appropriate to do so.

18 **IT IS FURTHER ORDERED** that after closing, the Receiver shall provide a full  
19 accounting of sale costs, property taxes paid, and the amount ultimately returned to the  
20 receivership estate from the sale proceeds.

21 **IT IS SO ORDERED.**

22  
23 Dated: July 20, 2021

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25 \_\_\_\_\_  
26 Honorable Allison H. Goddard  
27 United States Magistrate Judge  
28