

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,)	
)	
)	Civil Action No. 19-cv-05957
)	
Plaintiff,)	
v.)	Hon. John Z. Lee
)	
NORTHRIDGE HOLDINGS, LTD., ET AL.,)	
)	Magistrate Judge Susan E. Cox
Defendants.)	
)	

**RECEIVER’S MOTION FOR
COURT APPROVAL OF THE RATES TO BE
CHARGED BY RECEIVER’S PRORPERTY MANAGER**

N. Neville Reid, not individually, but solely as the court-appointed receiver (the “Receiver”) for the Estate of Defendant Northridge Holdings, Ltd. and the related entities and affiliates as set forth in more particularity in the Receivership Order (as defined herein) (collectively, the “Receivership Defendants”), and pursuant to the powers vested in him by the *Order Appointing Receiver* entered by the Court on September 12, 2019 [Dkt. No. 22] (the “Receivership Order”), intends to retain 33 Realty Management, L.L.C. (“33 Realty”) to perform property management and related services regarding the assets of the Receivership Defendants (as set forth more particularly in the Receivership Order, the “Receivership Assets”, and such estate, the “Receivership Estate”). The Receiver now respectfully moves the Court for an order approving the rates to be charged by 33 Realty. In support of his Motion, the Receiver states as follows:

INTRODUCTION

1. The Receivership Assets include the following real estate (collectively, the “Real Estate Assets”): (a) a 576-unit apartment building located in West Chicago, Illinois; (b) a 192 apartment complex located in Bartlett, Illinois; (c) a 96-unit apartment building located in Addison, Illinois¹; (d) 48 condos located at 106 Surrey, Glen Ellyn, Illinois; (e) an office building located in Chicago, Illinois; (f) a condo unit located in Palatine, Illinois; (g) a house located in Glen Ellyn, Illinois and (h) a condo located in Miami, Florida. As more fully set forth below, due to the size and complexity of the Real Estate Assets, a property manager is required to efficiently and cost-effectively manage the Real Estate Assets to preserve value for the benefit of the Receivership Estate.

AUTHORITY

2. Pursuant to the Securities Act of 1933 and the Securities Exchange Act of 1934, the Securities and Exchange Commission (the “SEC”) sought and obtained the appointment of a Receiver. Under the Receivership Order, the Receiver has authority in equity, as well as under 28 U.S.C. §§ 754, 959, and 1692, and Fed. R. Civ. P. 66, and was given broad powers to investigate and safeguard the assets of the Receivership Defendants. Among other powers, the Receiver is authorized to retain a property manager. *Receivership Order*, ¶¶ 8K, 50. Although the Receivership Order likely authorizes the Receiver to engage 33 Realty without further order of the Court, the Receiver seeks such approval out of abundance of caution and in the interest of full disclosure to the Court and interested parties.

¹ This is the so called “Chablis” property. Pursuant to the Receivership Order, the Receiver and the Receivership Defendants seek to close the sale of this property on or before September 20, 2019. *See Receivership Order*, ¶ 40. If closed, the Receiver will not need property management services with respect to such property.

RELEVANT BACKGROUND

3. Upon learning of the Real Estate Assets, Receiver determined that there is an immediate need to retain a property manager to perform, among other things, the following services: collecting rent, handling/ resolving tenant inquiries, performing repairs, addressing/ resolving tenant disputes, renewing leases, filling unit vacancies, monitoring any capital improvement projects and generally advising the Receiver as to how best to position the Real Estate Assets for sale. Currently, some of these functions are being performed by Defendant Mueller, his wife and certain employees of the Receivership Defendants. Due to the serious nature of the allegations contained in the SEC's Court-filings, an independent, third-party property manager is needed to ensure that the value of the Real Estate Assets is preserved for the benefit of the Receivership Estate.

4. In order to identify a property manager, the Receiver solicited proposals from eight (8) real estate management firms located in the greater Chicagoland area. Seven (7) of these firms executed confidentiality agreements in order to receive additional information about submitting a proposal and four (4) firms submitted proposals. For the reasons set forth below, the Receiver selected 33 Realty's proposal.

RATES TO BE CHARGED BY 33 REALTY

5. The following are proposed rates to be charged by 33 Realty:

- a. Four-percent (4%) of gross rents collected (revenue);²
- b. Lease renewal fee – \$100;
- c. New lease procured by 33 Realty – one (1) month's rent (unless

² The Receiver notes that according to the SEC's filings, a five-percent (5%) management fee is currently being charged. Further, 33 Realty normally charges a minimum of four-and-one-half-percent (4.5%) of gross rents for its property management and related services and, therefore, is providing at least a ten-percent (10%) discount to the receivership.

there are salaried onsite leasing professionals);

d. Out of scope hourly fee – \$195/hr³ ; and

e. A breakup fee if both of the larger properties (i.e., the Timberlake Property and the Bartlett Property) are sold within twenty-four (24) months and 33 Realty is not retained as property manager by the buyer of either property as follows: \$75,000 if such properties are sold within twelve (12) months or \$50,000 if such properties are sold within twenty-four (24) months. Such fee would be paid only upon the later closing of these properties.

Additionally, if an issue arises and specialized expertise or a third-party vendor is needed, 33 Realty will source the same and pass through the expense at 33 Realty's cost.⁴ Lastly, if there is a large capital improvement or repair project (in excess of \$25,000), the parties will negotiate in good faith as to any additional fee (but in no event shall such fee exceed twelve-percent (12%) of the gross cost of the project). The Receiver intends to pay 33 Realty in the ordinary course and out of the free cash flow generated by the Real Estate Assets.

6. The Receiver selected 33 Realty as property manager because (among other reasons): (a) 33 Realty's rate was as low (or was about the same) as other proposals when taking into account all cost components; (b) 33 Realty's prior receivership experience is the most extensive (e.g. 33 Realty principal Drew Millard, who will be leading the 33 Realty team, has been appointed as a receiver in over 150 cases in the past nine (9) years); (c) the Receiver has a

³ This fee is not anticipated and is only requested when tasks are requested outside of the typical property management scope of services and shall not be charged without the Receiver's prior written consent. An example of such a task would be appearing in court or working with city officials to clear any violations.

⁴ 33 Realty will leverage its vast network of local vendors to secure third-party maintenance at a pass-through cost to the buildings. 33 Realty is often able to leverage its purchasing power into discounted services from a list of preferred vendors, and such discounts are passed-through.

prior relationship with 33 Realty (as described below), and believes such relationship will add an additional layer of accountability; and (d) 33 Realty has construction and sale capabilities that the Receiver can use as a resource to best position the Real Estate Assets for sale.⁵

7. With respect to the proposed breakup fee, 33 Realty will spend significant resources in onboarding the Real Estate Assets. As a result, the Receiver believes it is fair that 33 Realty be allowed to recoup such costs. Since any such fee would be paid at the closing of the relevant property, the Receivership Estate does not have to come out-of-pocket at this time and would come out-of-pocket only (if at all) after value has been added. The break-up fee, which may not need to be paid, is in lieu of an initial fee or increased fee rate that were included in other proposals. Put simply, 33 Realty's proposed compensation is fair, reasonable, appropriate and in the best interest of the efficient and economical administration of this receivership. Further, due to the immediate need for property management services, the Receiver requested that 33 Realty begin its engagement immediately on September 16, 2019. As such, the Receiver intends to pay 33 Realty retroactively as of such date.

8. Lastly, 33 Realty does not hold or represent an interest materially adverse to the interests of the receivership.

DISCLOSURE OF RELATIONSHIP

9. 33 Realty has in the past been a client of the Receiver's law firm, Fox Swibel Levin & Carroll LLP ("Fox Swibel"). Fox Swibel has provided legal services to 33 Realty (a) regarding employment law and (b) related to purchasing a property out of bankruptcy (the deal did not close). Fox Swibel is not currently representing 33 Realty on any matter. Additionally, attorney Ryan Schultz of Fox Swibel is personal friends with 33 Realty's CFO.

⁵ To be clear, the Receiver is not seeking to approve 33 Realty as broker for the Real Estate Assets. The Receiver intends to solicit separate broker proposals.

Although the foregoing relationships do not create a legal conflict and no financial conflict of interest exists, the Receiver discloses such relationships in the interest of full transparency.

NO OBJECTION BY THE SEC

10. The SEC has indicated that it does not object to the relief requested herein.

[signature page follows]

WHEREFORE, the Receiver respectfully requests that the Court (a) grant this Motion and enter the *Order Approving the Rates to be Charged by 33 Realty* (a proposed form of which is attached hereto as **Exhibit A**) as of September 16, 2019 and (b) grant all other or further relief as is just and proper.

Dated: September 20, 2019

N. Neville Reid, Receiver

By: /s/ Suj M. Pandya

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EXHIBIT A

[Proposed Order]

(see attached)

