

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**ARIEL QUIROS,
WILLIAM STENGER,
JAY PEAK, INC.,
Q RESORTS, INC.,
JAY PEAK HOTEL SUITES L.P.,
JAY PEAK HOTEL SUITES PHASE II. L.P.,
JAY PEAK MANAGEMENT, INC.,
JAY PEAK PENTHOUSE SUITES, L.P.,
JAY PEAK GP SERVICES, INC.,
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,
JAY PEAK GP SERVICES GOLF, INC.,
JAY PEAK LODGE AND TOWNHOUSES L.P.,
JAY PEAK GP SERVICES LODGE, INC.,
JAY PEAK HOTEL SUITES STATESIDE L.P.,
JAY PEAK GP SERVICES STATESIDE, INC.,
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,
AnC BIO VERMONT GP SERVICES, LLC,**

Defendants, and

**JAY CONSTRUCTION MANAGEMENT, INC.,
GSI OF DADE COUNTY, INC.,
NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,**

Relief Defendants.

_____ /

NOTICE OF NO OPPOSITION

The undersigned hereby acknowledges that, pursuant to Local Rule 7.1(a)(3), I have conferred with counsel for defendant Ariel Quiros (“Quiros”) concerning the Receiver’s Motion to Authorize the Refund of Phase VII Investor Funds Held in Escrow (“Motion”) [ECF No. 268] and the relief sought therein. Counsel for the Receiver and Mr. Quiros have agreed on the

language set forth in the Proposed Order attached as “**Exhibit A**” to resolve the Motion. As a result, Mr. Quiros has no objection.

Dated: January 29, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this 29th day January, 2017 via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case as indicated on the attached Service List.

By: /s/ Naim Surgeon
Naim Surgeon, Esq.

SERVICE LIST

1:16-cv-21301-DPG Notice will be electronically mailed via CM/ECF to the following:

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UNITED STATES DISTRICT COURT
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JAY CONSTRUCTION MANAGEMENT, INC.,
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NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants.

Q BURKE MOUNTAIN RESORT, HOTEL
AND CONFERENCE CENTER, L.P.
Q BURKE MOUNTAIN RESORT GP SERVICES, LLC,

Additional Receivership Defendants

**[PROPOSED] ORDER GRANTING RECEIVER'S MOTION TO AUTHORIZE
THE REFUND OF PHASE VII INVESTOR FUNDS HELD IN ESCROW**

THIS cause comes before the Court on the Receiver's Motion to Authorize the Refund of Phase VII Investor Funds Held in Escrow ("Motion") [ECF No. 268]. The Court, having reviewed the Motion and being otherwise fully advised in the premises, it is hereby

ORDERED and ADJUDGED that the Motion is **GRANTED**. The Court finds that the the Jay Peak Biomedical Project will not be completed in a manner that is consistent with the underlying Subscription Agreements (Motion Ex. C [ECF No. 268-4]) and the initial representations that were made to the Phase VII Investors. In addition, despite his best efforts, the Receiver cannot guarantee that any remedy pursued on behalf of the Phase VII Investors will be timely realized, if at all. Therefore, the Court **RESCINDS** each of the Escrow and

Subscription Agreements concerning the 36 named Phase VII Investors set forth in Exhibit B to the Motion [ECF No. 268-3] consistent with paragraph 2 of the Order appointing the Receiver [ECF No. 13] subject to the following conditions:

1. To receive a refund of the escrow deposit, each Phase VII Investor must first execute a release of any and all claims he, she, or it may have against the Receivership Estate and assign all claims held by that Phase VII Investor against any third party to the Receiver.

2. Thereafter, the Receiver is authorized to refund the amounts held in the escrow account at People's United Bank, Burlington Square, Burlington, Vermont 05401, Account No. 75-C009-90-1 in the amounts set forth on Exhibit B to the Motion for each of the above-referenced investors.

DONE and ORDERED at Chambers in Miami, Florida this ____ day of _____, 2017.

THE HONORABLE DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE