

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.

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

Additional Receivership Defendants¹

RECEIVER'S MOTION TO APPROVE SETTLEMENT WITH PEAK CM, LLC
AND SUPPORTING MEMORANDUM OF LAW

¹See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No. 60].

Michael I. Goldberg (the “Receiver”), the Court-appointed Receiver pursuant to the Order Granting Plaintiff Securities and Exchange Commission’s Motion for Appointment of Receiver (the “Receivership Order”) [ECF No. 13], dated April 13, 2016, through undersigned counsel, hereby files this Motion to Approve the Settlement with PeakCM, LLC. In support of this motion, the Receiver states as follows:

PRELIMINARY STATEMENT

Prior to the appointment of the Receiver, the Receivership Entities (defined below in fn. 3) were largely engaged in the business of raising money from investors pursuant to the federal EB-5 immigration program and utilizing such funds for the construction of various hotels and related projects in Northeastern Vermont. To that end, the Receivership Entities retained numerous general contractors and subcontractors to perform construction work. One of those contractors, PeakCM, LLC (“PeakCM”) served as the construction manager and general contractor on various projects, including, but not limited to the ground breaking and preliminary construction of a biomedical research facility in Northeastern Vermont; construction of a hotel on Burke Mountain; and the purchase and installation of snowmaking equipment for use at Burke Mountain. PeakCM initially asserted claims in the sum of \$2.75 million against the receivership estate. These claims include (i) the sum of \$2.1 million incurred in connection with the partial construction of the biomedical research facility;² (ii) approximately \$220,000 for its unpaid portion of the cost of construction of the Burke Hotel;³ and (iii) \$448,945 for certain construction services and for reimbursement of funds it paid on behalf of certain of the Receivership Entities for the purchase and installation of snowmaking equipment on Burke Mountain.

² This amount includes claims of the subcontractors and suppliers in the sum of \$278,750. See Exhibits A and B to the Stipulated Writ of Attachment, dated September 22, 2016 [ECF No. 218].

³ See Exhibit B to the Stipulated Writ of Attachment, dated June 10, 2016 [ECF No. 164].

The Receiver investigated PeakCM's pre-receivership relationship with the Receivership Entities and discovered a claim the Receivership Entities have against PeakCM, for the return of a \$500,000 security deposit (the "Security Deposit") paid to PeakCM prior to the appointment of the Receiver. Pursuant to the settlement more fully described herein, PeakCM will discount its claims for monies owed from approximately \$2.75 million to \$1.5 million, retain the Security Deposit and apply the Security Deposit as partial satisfaction of its claims. Moreover, PeakCM will waive its right to any interest and other fees in connection with the biomedical research facility and will delay receipt of such payment of its claim until the biomedical research facility's real property is sold. A copy of the letter memorializing the settlement is attached hereto as Exhibit "1" (the "Settlement Letter"). The Receiver believes that this settlement is in the best interest of the Receivership Entities and the receivership estate because it reduces PeakCM's claims by \$1.25 million and saves the cost, risk and uncertainty of litigation.

I. BACKGROUND

1. On April 12, 2016, the Securities and Exchange Commission (the "SEC") filed a complaint [ECF No. 1] in the United States District Court for the Southern District of Florida (the "District Court") against the Receivership Defendants,⁴ the Relief Defendants,⁵ William Stenger and Ariel Quiros, alleging that the Defendants violated the Securities Act of 1933 and

⁴ The "Receivership Defendants" are 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 Townhouse L.P., Jay Peak GP Services Lodge, Inc., Jay Peak Hotel Suites Stateside L.P., Jay Peak Services Stateside, Inc., Jay Peak Biomedical Research Park L.P., and AnC Bio Vermont GP Services, LLC.

⁵ The "Relief Defendants" are Jay Construction Management, Inc., GSI of Dade County, Inc., North East Contract Services, Inc., and Q Burke Mountain Resort, LLC. Later, Q Burke Mountain Resort, Hotel and Conference Center, L.P. and Q Burke Mountain Resort GP Services, LLC were added as "Additional Receivership Defendants". The Receivership Defendants, Relief Defendants, and Additional Receivership Defendants are collectively referred to as the "Receivership Entities."

the Securities Exchange Act of 1934 by making false or materially misleading representations to investors in connection with seven securities offerings.

2. The first six offerings were associated with construction and renovation at the Jay Peak ski resort and its accompanying facilities. The seventh offering, by Jay Peak Biomedical Research Park L.P., raised funds to construct a biomedical research facility near Newport, Vermont. An eighth offering raised funds for the construction of a hotel and other facilities on Burke Mountain.

A. The AnC Bio Project

3. Jay Peak Biomedical Research Park L.P. (“AnC Bio”) is the receivership entity that raised funds from investors to construct a biomedical research facility in Northeastern Vermont (the “AnC Bio Project”).

4. AnC Bio VT, LLC (“AnC Bio VT”), an agent of AnC Bio, retained PeakCM to supply design services, labor and materials for the AnC Bio Project, located at 172 Bogner Drive, Newport, Vermont (the “AnC Bio Property”).

5. AnC Bio VT authorized Peak CM to commence limited construction under the terms set forth in an email exchange dated May 26, 2015. PeakCM provided preconstruction services from October 2015 through March of 2016. PeakCM ceased construction due to lack of payment from AnC Bio VT.

6. Due to the stay invoked by the Receivership Order, PeakCM was unable to file a claim of lien against the AnC Bio Property without approval of the District Court. Pursuant to the Stipulated Writ of Attachment entered by the Clerk of the District Court on September 22, 2016 [ECF No. 218], PeakCM filed a claim of lien against the AnC Bio Property in the sum of

\$2,170,649. (This claim includes \$278,750 in claims of subcontractors, but excludes interest, penalties and attorney's fees).

7. As a compromise of PeakCM's claim of lien of \$2,170,649 the Receiver and PeakCM have agreed to reduce the amount of PeakCM's claim to \$1,167,124.00, (which includes the claims of subcontractors) (the "AnC Bio Claim"). The claim amount shall not accrue any interest or any other fee, penalty or expense.

8. Ariel Quiros, as the principal of Relief Defendant GSI of Dade County, Inc. ("GSI") has executed and delivered the deeds to turnover of ownership, possession and control of the AnC Bio Property to the Receiver for the benefit of the receivership estate.⁶ See, Order Granting Plaintiff's Unopposed Motion to Modify Asset Freeze to Allow Defendant Ariel Quiros to Turn Over Assets to the Receiver [ECF No. 346]. Shortly, the Receiver intends to sell the AnC Bio Property.

9. The AnC Bio Claim shall be paid from the proceeds of the sale of the AnC Bio Property. The Receiver will use his best efforts to promptly sell the AnC Bio Property (subject to the approval of the Court). The closing officer at the sale of the AnC Bio Property shall be authorized and directed to pay off PeakCM's lien at the time of closing on the sale in exchange for waivers of claims and discharges of lien and attachment by PeakCM and its subcontractors.⁷

10. PeakCM shall also defend, indemnify and hold harmless the Receivership Entities and the Receiver against any claims against them by the subcontractors and suppliers on the AnC Bio Project.

⁶ GSI purchased 25 acres outside Newport, Vermont in July 2011, and later sold a portion of the land to AnC Bio. However, the sale was never recorded in the local property records. Pursuant to Vermont law, GSI remained the owner of the entire track of land.

⁷ The AnC Bio Claim will be recoverable solely from the net sales proceeds of the AnC Bio Property (the "AnC Sale Proceeds") and PeakCM will be responsible for paying all subcontractors and suppliers from the AnC Sale Proceeds it receives. To the extent the AnC Sales Proceeds are not sufficient to pay the AnC Bio Claim in full, PeakCM will share such proceeds on a pro-rata basis with its subcontractors and suppliers.

B. The Burke Hotel Project

11. Q Burke Mountain Resort, LLC, Q Burke Mountain Resort, Hotel and Conference Center, L.P. and Q Burke Mountain Resort GP Services, LLC are the receivership entities involved in the construction of a hotel and other facilities on Burke Mountain (the “Burke Hotel Project”). The majority of the construction on the Burke Hotel Project, including the hotel, was completed in February 2016.

12. By contract dated on or about October 1, 2012, Q Burke Mountain Resort, LLC retained PeakCM to serve as the general contractor for the Burke Hotel Project. PeakCM retained subcontractors and suppliers (together “Subcontractors”) to supply labor and materials to the Burke Hotel Project per the Contract.

13. Pursuant to the Stipulated Writ of Attachment entered by the Clerk of the District Court on June 10, 2016 [ECF No. 164], Peak CM alleged the total sum of \$3,919,903 was owed to PeakCM and the Subcontractors in connection with the construction services provided in connection with building the Burke Hotel Project. The vast majority of this amount, \$3,699,121.47 was owed to the Subcontractors. The Receiver has paid the allowed claims of the Subcontractors from the proceeds of the Raymond James settlement, leaving \$220,000 unpaid.

14. The Receiver shall allow PeakCM a claim for \$146,905 representing its direct costs arising out of the construction of the Burke Hotel Project, net of claims of subcontractors and suppliers (the “Burke Hotel Claim”). PeakCM shall apply the Security Deposit as payment in full of all claims it may have against the Receivership Entities arising out of the services and goods it furnished to the Burke Hotel Project.

15. As a condition of payment to the Subcontractors listed on Exhibit A to the Settlement Letter, the Receiver required the Subcontractors to execute and deliver a release of

PeakCM substantially in the form attached as Exhibit B to the Settlement Letter. The Receiver shall deliver copies of the releases to PeakCM.

16. The Receiver and Peak CM dispute the claim of one of the subcontractors, Blanc & Bailey Construction, Inc. (“Blanc & Bailey”) due to its failure to timely complete work in accordance with its contract. Pursuant to the settlement, PeakCM shall defend, indemnify and hold harmless the Receivership Entities and the Receiver for any claims against them by Blanc & Bailey.

C. The Snowmaking Project

17. As part of its construction services, PeakCM helped oversee the purchase and installation of snowmaking equipment on Burke Mountain (the “Snowmaking Project”). In connection with such services, on behalf of the Burke Entities, Peak CM paid for the snowmaking equipment; for the services of an electrical contractor and excavator for installation of the equipment; and for the services of architects needed to obtain a land use permit. PeakCM asserts it is owed \$448,945 in connection with the purchase and installation of the snowmaking equipment.

18. The Receiver shall allow a claim by PeakCM for \$250,000 its direct costs arising out of the goods and services it furnished in connection with the Snowmaking Project (the “Snowmaking Claim”). PeakCM shall apply the Security Deposit to its Snowmaking Claim as payment in full of all claims it may have against the Receivership Entities arising out of the services and goods it furnished in connection with the Snowmaking Project.

19. The Receiver and PeakCM shall exchange mutual releases thereby releasing each other from any claims associated or arising out of the Burke Hotel Project and the Snowmaking

Project, excluding any warranty claims that the Receiver may have against PeakCM pursuant to the various contracts previously entered into by PeakCM or under other applicable law.

D. Potential Claims Against PeakCM

20. Prior to the receivership, PeakCM engaged in a transaction involving the Burke Mountain Hotel that the Receiver believes may give rise to claims against PeakCM by the Receiver. More specifically, sometime in 2015, the State of Vermont regulators put restrictions in place requiring that the Receivership Entities could only use investor funds to pay valid construction costs. Thereafter, an investor demanded a refund of his \$500,000 investment, but the Receivership Entities did not have available unrestricted cash to pay the refund. To circumvent the restrictions, executives at the Q Burke Mountain Resort, LLC contacted PeakCM about crediting and refunding a portion of the money PeakCM received for construction work already completed at the Burke Mountain Hotel. PeakCM agreed, but requested \$500,000 as collateral in case there was an issue with returning or repaying this credit. PeakCM currently holds the Security Deposit of \$500,000. PeakCM acknowledges that the Security Deposit is an asset of the receivership estate.

II. Settlement Terms

21. The Receiver believes the terms of this settlement are beneficial to the Receivership Entities and their creditors. The Burke Hotel Claim in the sum of \$146,905, represents a \$75,095 reduction from the amount provided in the Stipulated Writ of Attachment. Moreover, the Snowmaking Claim in the sum of \$250,000, represents a \$198,945 reduction from the \$448,945 originally demanded by PeakCM. The Receiver will pay no money to PeakCM for these claims. Instead, PeakCM will apply \$396,905 from the Security Deposit as complete payment of the Burke Hotel Claim and the Snowmaking Claim.

22. PeakCM shall credit the \$103,095 balance of the Security Deposit to the AnC Bio Claim, leaving \$1,064,029 remaining unpaid. Peak CM shall issue a partial discharge of the lien and attachment for the AnC Bio claim, thus reducing the lien and attachment to \$1,064,029. The remaining AnC Bio Claim shall not accrue any interest or any other fee, penalty or expense. PeakCM will wait to receive payment of its AnC Bio Claim from the AnC Sale Proceeds.

23. The settlement resolves all claims the Receiver and PeakCM may have against each other, excluding any warranty claims the Receiver may have against PeakCM.

Memorandum of Law

The Order Appointing Receiver authorizes, empowers and directs the Receiver to defend, compromise or settle legal actions in which the receivership entities are a party. *See* Order Appointing Receiver at ¶ 6. Here, the Receiver was able to resolve the dispute with the PeakCM prior to initiating litigation. “A district court has broad powers and wide discretion to determine relief in an equity receivership.” *SEC. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). In such an action, a district court has the power to approve a settlement that is fair, adequate and reasonable, and is the product of good faith after an adequate investigation by the receiver. *Sterling v. Steward*, 158 F.3d 1199 (11th Cir. 1998). “Determining the fairness of the settlement is left to the sound discretion of the trial court and *we will not overturn the court’s decision absent a clear showing of abuse of that discretion.*” *Id.* at 1202 (quoting *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984) (emphasis supplied).

To approve a settlement in an equity receivership, a district court must find the settlement is fair, adequate and reasonable, and is not the product of collusion between the parties. *Sterling*, 158 F.3d at 1203. To determine whether the settlement is fair, the court should examine the following factors: “(1) the likelihood of success; (2) the range of possible [recovery]; (3) the

point on or below the range of [recovery] at which settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved.” *Id* at 1203 n.6 (citing *Bennett*, 737 F.2d at 986 (11th Cir. 1984)).

Upon due consideration of these governing factors, the settlement with PeakCM should be approved. Before entering into the settlement, the Receiver and his counsel carefully considered and dutifully investigated all potential claims of the Receivership Entities against PeakCM. Prior to accepting the settlement offered by PeakCM, the Receiver evaluated the defenses to be asserted in the event of litigation; the delay and expense of litigating such claims; the uncertainty of outcome in any such litigation; and the possibility of appeal by PeakCM of any adverse outcome. The Receiver entered into the settlement after extensive, arm’s length negotiations conducted between the Parties and their experienced counsel in good faith.

The Settlement Agreement reduces the claims asserted by PeakCM by approximately \$1.2 million. The Settlement Agreement, therefore, provides a substantial benefit to the Receivership Entities and their investors and other creditors. Accordingly, the Settlement Agreement is fair, adequate and reasonable. The Order Appointing Receiver authorizes, empowers and directs the Receiver to make agreements as may be reasonable, necessary and advisable in discharging the Receiver’s duties. *See* Order Appointing Receiver at ¶ 8. The Receiver believes that approving the settlement and release with PeakCM is advisable and will undoubtedly benefit the receivership estate.

WHEREFORE, the Receiver respectfully requests the Court to enter an Order in the form attached hereto as Exhibit “2”, approving the settlement and to grant such further relief as is just and proper.

LOCAL RULE 7.1 CERTIFICATION OF COUNSEL

Pursuant to Local Rule 7.1, undersigned counsel hereby certifies that he has conferred with counsel for the Securities and Exchange Commission, who has no objection to this Motion or the relief requested in this Motion; and counsel for Ariel Quiros and William Stenger, who take no position on the Motion.

Respectfully submitted,

By: /s/ Michael I. Goldberg
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Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this March 13, 2018 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/ Michael I. Goldberg
Michael I. Goldberg, Esq.

SERVICE LIST

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

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Inc.

EXHIBIT 1



WILLIAM ALEXANDER FEAD
DARREN R. MISENKO

WILLIAM ALEXANDER "SANDY" FEAD
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March 6, 2018

Michael I. Goldberg, Esq.
Akerman, LLC
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Fort Lauderdale, FL 33301

Re: SEC v. Quiros Receivership, United States District Court, Southern District of
Florida, Case no. 16-cv-21301-Gayles

**PeakCM, LLC – Q Burke Mountain Resort Hotel and Conference Center Project,
Q Burke Snowmaking Project and AnC Bio VT Project**

Dear Attorney Goldberg:

This letter agreement sets out the terms of the settlement between the Receiver and PeakCM, LLC ("PeakCM") regarding the claims of each against the other. The parties acknowledge that this settlement is conditioned upon approval by the Court in the above captioned receivership.

Q Burke Mountain Resort Hotel and Conference Center Project ("QBHC Project")

1. PeakCM claim. As a compromise, the Receiver shall approve a claim by PeakCM for its direct costs arising out of the construction of the QBHC Project, net of claims of subcontractors and suppliers, in the amount of \$146,905. PeakCM shall accept a one-time payment of that amount as payment in full of any and all claims it may have against the Receivership Entities arising out of the QBHC Project.

2. Indemnification by Receivership Estate. A list of PeakCM's first tier subcontractors and suppliers on the QBHC Project is attached as **Exhibit A**. As a condition of any payment to a subcontractor or supplier listed on Exhibit A, the Receiver shall require the subcontractor or supplier to execute and deliver a release of PeakCM substantially in the form attached as **Exhibit B**

3. Indemnification by PeakCM. PeakCM shall defend, indemnify and hold harmless the Receivership Entities against any claims against it by Blanc & Bailey Construction, Inc.

Q Burke Mountain Snowmaking Project ("QBSM Project")

4. Claim recognized. The Receiver shall approve a claim by PeakCM for \$250,000 as a compromise settlement of PeakCM's claims for the QBSM Project. PeakCM shall accept a one-time payment of that amount as payment in full of any and all claims it may have against the Receivership Entities arising out of the QBSM Project.

Security deposit, payment and releases for QBHC and QBSM Projects.

5. Credit of Security Deposit. PeakCM and the Receiver acknowledge that PeakCM is holding a security deposit of \$500,000 which is part of the assets of the Receivership. The Receiver and PeakCM agree that PeakCM shall retain the security deposit as payment of its claims for the QBHC and

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Michael I. Goldberg, Esq.
March 6, 2018
Page 2 of 2

QBSM Projects, with the balance of \$103,095 to be applied as a partial payment of its claims for the AnC Bio Project described below.

6. Releases. The parties shall exchange mutual releases thereby releasing each other from any claims associated or arising out of the QBHC and QBSM Projects, excluding any warranty claims that the Receiver may have against PeakCM pursuant to the various contracts previously entered into by PeakCM or under other applicable law.

AnC Bio Project

7. Claims Reduced to Judgment. The Receiver shall use his best efforts to promptly sell the AnC Bio Project and satisfy the claims of PeakCM and its subcontractors from the proceeds thereof. As a compromise of PeakCM's lien claim of \$2,170,649 (including claims of subcontractors and excluding any interest, penalties and attorney's fees) the Receiver and PeakCM stipulate the amount of PeakCM's claim to be \$1,167,124.00 (including the claims of subcontractors, and collectively, the "AnC Bio Claim") as calculated on **Exhibit C**. PeakCM shall credit the \$103,095 balance of the Security Deposit to this amount, leaving \$1,064,029 remaining unpaid. Peak CM shall issue a partial discharge of the lien and attachment for its claim reducing the lien and attachment to \$1,064,029. The claim amount shall not accrue any interest or any other fee, penalty or expense. PeakCM acknowledges and agrees that any further action to enforce the claim is subject to the jurisdiction of the Receivership Court and to the stays imposed in the Receivership. The AnC Bio Claim will be recoverable solely from the net sales proceeds of the AnC Bio Property (the "AnC Sale Proceeds") and PeakCM will be responsible for paying all subcontractors and suppliers from the AnC Sale Proceeds it receives. To the extent the AnC Sales Proceeds are not sufficient to pay the AnC Bio Claim in full, PeakCM will share such proceeds on a pro-rata basis with its subcontractors and suppliers. The closing officer at the sale of the AnC Bio Project property shall be authorized and directed to pay off the consent judgment on PeakCM's lien at the time of closing on the sale in exchange for waivers of claims and discharges of lien and attachment by PeakCM and its subcontractors.

8. Indemnification by PeakCM. PeakCM shall defend, indemnify and hold harmless the Receivership Entities against any claims against them by PeakCM's subcontractors and suppliers on the AnC Bio Project, listed on Exhibit D.

Within five days after execution of this letter agreement, the Receiver shall file a motion with the court seeking approval of this settlement.

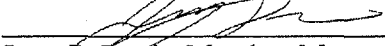
Please call me if you have any questions or revisions to this settlement. If you agree, please sign below where indicated and return a signed copy to me.

Thank you.

Very truly yours,

William Alexander Fead
Direct Dial: 802-922-9083

PeakCM, LLC

By: 
Jerry P. Davis, Member-Manager

Michael I. Goldberg, Esq.
Receiver

EXHIBIT 1-A

ATTACHMENT A
TO STIPULATED WRIT OF ATTACHMENT

Company	Scope of Work	Amount Owed
All Season Urethane Foam	Spray Foam	\$19,991.80
Bay State Elevator Co	Elevator	\$56,423.20
Blanc & Bailey	Framing	\$0.00 (disputed)
Champlain Door Co.	Overhead Doors	\$2,349.00
Conrad Construction, Inc	Siding/Roofing	\$245,237.90
Forbes Tile	Tile	\$31,523.86
Gardner Kilcoyne Architects	Architects	\$68,990.00
J. Hutchins Inc	Sitework	\$387,767.35
Jeffords Steel & Specialty Co	Misc Metal/Steel	\$162,591.50
Kelley Bothers of New England	Doors & Windows	\$135,094.84
Kittredge Equipment Company	Equipment	\$68,038.54
Lajeunesse Interiors, Inc	Specialties	\$78,111.40
M&M Carpet Service	Carpet	\$72,983.60
Mike's Electric, Inc	Electrical	\$491,972.60
Nicom Coatings Corp	Water/Dampproofing	\$55,558.50
North Star Masonry	Masonry	\$76,006.00
Poulin Lumber, Inc	Panels/Trusses	\$178,718.90
RG Gosselin, Inc	Concrete	\$184,328.00
Specialty Coatings, LLC	Firestopping	\$21,500.00
St. Albans Glass Co. Inc	Storefronts & Entrances	\$42,089.98
Stantec Consulting Services Inc.	Geotechnical Investigation	\$3,764.90
The Chimney Sweep Fireplace Shop	Fireplaces	\$26,960.00
Tri-State Sprinkler, Inc	Fire Suppression	\$55,303.00
Valhalla Corp	Phones	\$52,801.19
Van Deusen & Associates	Elevator Survey	\$3,519.70
VHV Company	Mechanical	\$799,421.90
Vintage Painting, Inc	Painting	\$178,893.01
Windham Millworks	Millwork	\$199,180.80
		\$3,699,121.47

Subcontractors reserve the right to claim and seek additional amounts that may be owed for interest, penalties, attorney's fees or damages.

EXHIBIT 1-B

UNCONDITIONAL RELEASE AND WAIVER OF LIEN

Subcontractor/Supplier: _____ (“**Lienor**”)

Amount of allowed claim: \$ _____ (“**Claim**”)

Amount of payment: \$ _____ (“**Final Payment**”)

By contract dated on or about October 1, 2012, Q Burke Mountain Resort, LLC retained PeakCM, LLC (“**PeakCM**”) to supply labor and materials for the construction of a hotel and other facilities on Burke mountain (the “**Project**”), on lands located in Burke, Vermont, legally described in the attached Exhibit 1. Lienor provided work, labor, materials, machinery or other goods, equipment or services for the Project.

On April 13, 2016, the United States District Court for the Southern District of Florida, in the case *Securities and Exchange Commission v. Quiros, et al.*, Case No. 16-CV-21301-Gayles (the “**Receivership Court**”) appointed Michael Goldberg (“**Receiver**”) as receiver over the assets of Jay Peak, Inc. and related entities, including Q Burke Mountain Resort, LLC (the “**Receivership Entities**”)¹.

Upon consent of the Receiver and approval of the Receivership Court, on June 15, 2016, PeakCM recorded a Stipulated Writ of Attachment with the Burke Town Clerk in Book 142, Pages 25 – 33.

On January 4, 2017, the Receivership Court entered an Order authorizing the Receiver to partially pay certain undisputed contractor claims of lien (“**Claims**”). The Receiver has approved Lienor’s Claim in the amount listed above.

On June 30, 2017, the Receiver Court entered an Order approving the Receiver’s settlement with Raymond James & Associates, Inc., which provided funding to pay off the undisputed contractor claims of lien encumbering the Project. Upon receipt of an executed copy of this Unconditional Release and Waiver of Lien (“**Release**”), the Receiver will release the Final Payment to Lienor.

Lienor, for and in consideration of the Final Payment and other good and valuable consideration paid by the Receiver, receipt of which is hereby acknowledged, hereby releases, waives and quit claims to Receiver, the Receivership Entities, PeakCM, the Project, and their successors and assigns, and any surety providing a bond for the Project (collectively, the

¹ The Receivership Entities are comprised of Defendants, 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 Townhouse L.P., Jay Peak GP Services Lodge, Inc., Jay Peak Hotel Suites Stateside L.P., Jay Peak Services Stateside, Inc., Jay Peak Biomedical Research Park L.P., AnC Bio Vermont GP Services, LLC; Relief Defendants, Jay Construction Management, Inc., GSI of Dade County, Inc., North East Contract Services, Inc., and Q Burke Mountain Resort, LLC; Additional Receivership Defendants, Q Burke Mountain Resort, Hotel and Conference Center, L.P. and Q Burke Mountain Resort GP Services, LLC; along with their parent companies, subsidiaries and affiliates.

EXHIBIT 1
Legal Description of Project

223 Sherburne Lodge Road a/k/a 4600 Mountain Road, Town of Burke, County of Caledonia, State of Vermont, also known as Parcel No. 07070002.001 and SPAN No. 11103411243

Being all and the same lands and premises conveyed to Burke 2000, LLC by the limited warranty deed of B&I Lending, LLC, recorded at Book 80, Page 540 of the Town of Burke land records on November 1, 2000

EXHIBIT 1-C

EXHIBIT C

Calculation of PeakCM's Claim for AnC Bio

Item	Date	Amount
Invoice 034	11/30/15	\$111,574
Invoice 035	12/31/15	136,193
Invoice 036	1/31/16	174,635
Invoice 037	2/29/16	127,478
Invoice 038	3/31/16	172,449
Invoice G1009	6/28/16	444,795
Total		\$1,167,124.00

EXHIBIT 1-D

EXHIBIT D
List of AnC Bio Subcontractors and Suppliers

ATTACHMENT A

STIPULATED WRIT OF ATTACHMENT

Company	Trade	Amount
Dale Percy Inc.	Sitework	\$113,061.60
Hallam Associates	Consultant Admin Services	\$100,036.29
Mike's Electric Inc.	Electrical	\$27,729.20
Myers Container Services Corp.	Trash Removal	\$1,707.45
Trudell Consulting Engineers, Inc.	Design and Permitting	\$9,968.00
William Scotsman, Inc.	Office Trailer	\$26,248.00
		\$278,750.54

Subcontractors reserve the right to claim and seek additional amounts that may be owed for interest, penalties, attorney's fees or damages.

EXHIBIT 2

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.

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

Additional Receivership Defendants¹

ORDER APPROVING RECEIVER'S SETTLEMENT WITH PEAK CM, LLC

¹See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No.: 60].

CASE NO.: 16-cv-21301-GAYLES

THIS MATTER comes before the Court upon the receiver, Michael I. Goldberg's (the "Receiver") Motion to Approve Settlement with PeakCM, LLC (the "Motion") [ECF No. ____]. The Court, having reviewed the Motion, being advised that counsel for the Securities and Exchange Commission has no objection and Defendants Ariel Quiros and William Sanger take no position on the relief requested in the Motion, and finding that the Receiver has made a sufficient and proper showing in support of the relief requested,

IT IS ORDERED, ADJUDGED AND DECREED, as follows:

1. The Motion is **GRANTED**.
2. The Court approved the Receiver's settlement with PeakCM, LLC, as more fully described in the settlement letter attached to the Motion as Exhibit __ and to execute any documents and take any actions reasonably necessary to consummate the transactions contemplated in the Settlement Documents.
3. The Court shall retain jurisdiction to enforce the terms of the Settlement Documents.

DONE AND ORDERED in Chambers at Miami, Florida this ____ day of March 2018.

DARRIN P. GAYLES
UNITED STATES DISTRICT COURT JUDGE

Copies to:
Counsel of Record