

**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.,  
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 PEAK 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,  
AnC BIO VT, LLC,**

**Additional Receivership Defendants.**

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**RECEIVER'S MOTION FOR AUTHORIZATION TO MAKE A  
THIRD DISTRIBUTION TO BURKE PHASE VIII INVESTORS**

Michael I. Goldberg, the court-appointed receiver (the "Receiver") in the above-captioned case, files this Motion for Authorization to Make a Third Distribution to Burke Phase VIII Investors (the "Motion"). In support of this Motion, the Receiver states as follows:<sup>1</sup>

**I. Introduction**

1. There are 121 investors in Burke Phase VIII (the "Burke Phase VIII Investors") and 529 remaining investors in Jay Peak Phases II-VI. The Court has previously authorized interim distributions to both groups as assets have been liquidated or recovered, including distributions from settlements, the sale of the Jay Peak Resort, and the sale of real estate owned by Ariel Quiros. Specifically, the Court previously authorized the Receiver to make the following distributions:

a) \$19,500,000 to all investors in Jay Peak Phases II-VI and Burke Phase VIII Investors on a *pro-rata* basis. See ECF No. 719;

b) \$60,000,000 to all investors in Jay Peak Phases II-VI on a *pro-rata* basis. See ECF No. 744; and

c) \$23,890,137 to all investors in Jay Peak Phases II-VI and \$3,135,000 to the Burke Phase VIII Investors on a *pro-rata* basis. See ECF No. 764.

2. Moreover, the Receiver previously distributed \$15,391,386 to Jay Peak Phase I investors and \$84,000,000 to ANC Bio Phase VII investors pursuant to the Raymond James settlement. Accordingly, to date, the Receiver has distributed more than \$200 million to investors.<sup>2</sup>

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<sup>1</sup> Importantly, the Receiver still has miscellaneous uncollected settlement payments and real property that he is in the process of liquidating. It is not expected that these sums will be significant. The Receiver expects to file a motion seeking authority to distribute the proceeds of these assets to the Jay Peak and Burke Phase VIII Investors upon their liquidation.

<sup>2</sup> The Receiver also paid approximately \$15 million to pre-receivership non-investor creditors (trade and contractors) to satisfy their pre-receivership claims.

3. On April 24, 2025, this Court entered an Order approving the Receiver's sale of the Burke Mountain Resort (the "BMR") to Bear Den Partners LLC ("Bear Den Partners") for a purchase price of \$11,500,000. *See* ECF No. 771 (the "BMR Sale Motion").

4. Following the closing, and after deducting adjustments, the Receivership Estate received approximately \$11.2 million in net proceeds.<sup>3</sup>

5. The Receiver now seeks authorization to make a distribution of the BMR sales proceeds to the Burke Phase VIII Investors. Additionally, funds were earmarked specifically for the Burke Phase VIII Investors under the Receiver's settlement with Raymond James. The Receiver has held these funds in trust and now also seeks authorization to distribute these funds to the Burke Phase VIII Investors.

6. This Motion outlines the basis for and the process of the proposed distribution and demonstrates that the proposed allocations are fair, equitable, and consistent with the Court's prior distribution orders in this matter.

## **II. Background**

7. On April 13, 2016, the Court appointed Michael I. Goldberg as Receiver over the Receivership Defendants, the Relief Defendants, and Additional Receivership Defendants (collectively, the "Receivership Entities"). *See* ECF No. 13.

8. The Receiver's appointment was expanded by orders dated April 22, 2016 (ECF No. 60) and September 7, 2018 (ECF No. 493) to include additional entities, including Q Burke Mountain Resort, Hotel and Conference Center L.P., and its affiliated entities.

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<sup>3</sup> The final post-closing "true-up" has recently been completed.

9. The Receiver has liquidated numerous assets of the Receivership Estate and returned over \$200 million to defrauded EB-5 investors across multiple phases, including Jay Peak Phases II-VI and Burke Phase VIII investors.

10. With respect to Burke Phase VIII Investors, the Court previously approved a first interim distribution from the MSK Settlement Proceeds, as well as a second interim distribution from other recoveries, including settlement funds from the State of Vermont and sales proceeds from properties owned by Ariel Quiros. *See* ECF No. 763.

11. In the BMR Sale Motion, the Receiver informed the Court that a third distribution would be made following the sale of the Resort (ECF No. 763 ¶ 7). That sale has now closed, and the Receiver is prepared to make the distribution.

### **III. Proceeds Available to Distribute to Burke Phase VIII Investors**

12. The sale of the Burke Mountain Resort to Bear Den Partners was approved by the Court on April 24, 2025, after the Receiver demonstrated that the sale was the product of arms-length negotiations, fair and reasonable, and in the best interest of the Receivership Estate. *See* ECF No. 771.

13. At closing, the Receiver received approximately \$11,200,000 in net proceeds, after deducting closing adjustments, including an escrow holdback for water system repairs.

14. Additionally, the Receiver has approximately \$10,740,000 that he is holding in trust under the Raymond James settlement that was specifically earmarked for Burke Phase VIII Investors.<sup>4</sup> More specifically, pursuant to the Receiver's settlement with Raymond James, \$10,000,000 was placed in trust to be utilized to pay up to 20 Burke investors who were not eligible to apply for permanent residency with USCIS due to the failure of Q Burke Phase VIII to create sufficient jobs.

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<sup>4</sup> This sum includes interest earned on the funds.

(ECF No. 315 at EX. A, 3(d)(vi)). In the event sufficient jobs were created, these funds were to be returned to Raymond James. *Id.* However, the Receiver and Raymond James subsequently amended the settlement agreement to delete any right Raymond James had to the return of the funds and to provide that the funds would be distributed to all Burke Phase VIII Investors on a *pro-rata* basis. This amendment was approved by the Court. (ECF No. 666). The Receiver now seeks authorization to distribute these funds along with the BMR sales proceeds to Burke Phase VIII Investors.

15. Based on the foregoing, the Receiver seeks the authority to distribute \$21,940,000 to the 121 eligible Burke Phase VIII Investors on a *pro rata* basis (\$183,322 per investor).<sup>5</sup>

#### **IV. Legal Authority and Proposed Distribution Process**

16. Courts have consistently held that *pro rata* distributions are the fairest and most equitable method to distribute recovered funds in cases involving similarly situated investors. *See, e.g., SEC v. Forex Asset Management, LLC*, 242 F.3d 325, 331 (5<sup>th</sup> Cir. 200) (federal district court did not abuse its discretion in approving *pro rata* distribution plan); *United States v. Durham*, 86 F.3d 70, 73 (5<sup>th</sup> Cir. 1996) (district court was within its discretion to use *pro rata* distribution method even though it could have traced funds to specific investors).

17. The proposed *pro rata* distribution to the Burke Phase VIII investors is consistent with the methodology used in all prior distributions in this matter and treats all Burke investors equitably based on their original investments.

#### **V. Relief Requested**

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<sup>5</sup> Investors in Phase VIII that previously received *pro rata* distributions from the MSK Settlement Proceeds were provided with an opportunity to elect (for immigration purposes) for the Receiver to hold these distributions in trust in a non-interest bearing account until such time as the Receiver makes a final distribution. Notice of this continuing election, as well as information on how to elect to receive such funds in the future were provided directly to these investors. These elections were honored in prior distributions, and will continue to be honored in the proposed distributions underlying this Motion.

**WHEREFORE**, the Receiver respectfully requests that the Court enter an Order Authorizing the Receiver to make a third distribution to Burke Phase VIII investors in the amount of \$21,940,000, on a *pro rata* basis, from the proceeds of the sale of the Burke Mountain Resort and the moneys earmarked for the Burke investors under the Raymond James settlement and granting such other relief as the Court deems just and proper.

**LOCAL RULE 7.1(a)(3) CERTIFICATION**

The Receiver hereby certifies that he has conferred with counsel for the SEC, who does not oppose the relief requested in this Motion.

Dated: September 19, 2025

Respectfully submitted,

**AKERMAN LLP**  
201 E Las Olas Blvd  
Suite 1800  
Fort Lauderdale, FL 33301  
Phone: (954) 463-2700  
Fax: (954) 463-2224

By: /s/ Michael I. Goldberg  
Michael I. Goldberg, Esq.  
Florida Bar Number: 886602  
Email: [michael.goldberg@akerman.com](mailto:michael.goldberg@akerman.com)  
*Court-Appointed Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this 19<sup>th</sup> day of September, 2025 via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case, via e-mail to the last known e-mail address for all Burke investors, and via notice posted on the Receiver's website.

/s/ Michael I. Goldberg