

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 EX PARTE MOTION FOR ENTRY OF
AMENDED STIPULATED WRIT OF ATTACHMENT FOR THE
STATESIDE CONTRACTOR AND SUBCONTRACTORS**

¹See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [DE 60].

Michael I. Goldberg (the "Receiver"), in his capacity as the court-appointed Receiver for 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 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., and AnC Bio Vermont GP Services, LLC (collectively, "Receivership Defendants") and Relief Defendants Jay Construction Management, Inc., GS1 of Dade County, Inc., North East Contract Services, Inc., and Q Burke Mountain Resort, LLC (collectively, "Relief Defendants") files this Motion for Entry of Amended Stipulated Writ of Attachment for the Stateside Contractor and Subcontractors.

1. On May 24, 2016, the Receiver filed a Motion to Modify the Preliminary Injunction and/or Receivership Order to Authorize a Stipulated Writ of Attachment for the Stateside Contractor and Subcontractors to Preserve their Lien Rights (the "Motion to Modify") [D.E. 133]. A proposed Stipulated Writ of Attachment ("Writ") was attached to the Motion as Exhibit 1. A list of subcontractors was attached to Writ as Schedule A.

2. As more fully described in the Motion to Modify, by contract dated on or about June 9, 2015 ("Contract"), Jay Peak, Inc. and Stateside L.P. retained D.E.W. Construction Corp. ("DEW") to supply labor and materials for the Stateside Cottages project, located off of Stoney Path Road at the Jay Peak resort in Jay, Vermont. DEW retained subcontractors and suppliers (together "Stateside Subcontractors") to supply labor and materials to the Stateside Cottages project per the Contract, the terms of which were incorporated into their subcontracts.

3. On June 10, 2016, the Court entered an Order granting the Motion to Modify [D.E. 161]. At the same time, the Clerk of the District Court executed a Stipulated Writ of Attachment [D.E. 163] in the form attached to the Motion to Modify.

4. The Receiver and counsel for DEW had agreed to a revised form of the Writ. However, the Writ was executed by the Clerk of the District Court before counsel had an opportunity to submit a revised Writ. For the purpose of clarity and uniformity, the parties desire that the Writ reflect the format of the Writ used for the Q Burke Mountain Resort project. *See* D.E. 164.

5. Moreover, counsel for DEW has requested the Receiver use a revised Schedule A to the Writ, which provides more up-to-date information on the amounts of liens claimed by the Stateside Subcontractors.² Accordingly, the Receiver and DEW seek the entry of an Order directing the Clerk of the District Court to execute an Amended Stipulated Writ of Attachment, in the form attached as Exhibit 1 to the proposed Order, which is attached hereto as Exhibit A.

6. Since the parties do not seek to change any of the substantive relief requested in the Motion to Modify, the Memorandum of Law included in the Motion to Modify is incorporated herein.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3), the Receiver has contacted counsel for the Securities and Exchange Commission (“SEC”) and counsel for Defendants Quiros and Stenger. Counsel for the SEC has no objection to the relief requested. As of the time of filing this Motion, counsel for Defendants Quiros and Stenger have not responded. However, there were no objections to the underlying relief requested in the Motion to Modify.

² By agreeing to allow DEW to file a revised schedule of claims, the Receiver does not waive his right to object to the claims, amounts, validity, timeliness, priority and any other objections he may have to the claims of DEW and the Subcontractors.

WHEREFORE, the Receiver requests the Court direct the Clerk of the District Court to enter an Amended Stipulated Writ of Attachment and grant such other relief as is just and equitable.

Respectfully submitted,

AKERMAN LLP
350 E. Las Olas Boulevard, 16th Floor
Ft. Lauderdale, Florida 33301
Telephone: (954) 46-2700
Facsimile: (954) 463-2224

By: /s/ Michael I. Goldberg
Michael I. Goldberg, Esq.
Florida Bar No.: 886602
Email: 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 June 17, 2016 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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**SECURITIES AND EXCHANGE
COMMISSION**

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Counsel for Intervenor, Citibank N.A.

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

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ARIEL QUIROS,
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Relief Defendants.

Q BURKE MOUNTAIN RESORT, HOTEL
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Q BURKE MOUNTAIN RESORT GP SERVICES, LLC,

Additional Receivership Defendants¹

**ORDER GRANTING RECEIVER'S EX PARTE MOTION FOR ENTRY OF
AMENDED STIPULATED WRIT OF ATTACHMENT FOR THE
STATESIDE CONTRACTOR AND SUBCONTRACTORS**

¹ See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No.: 60].
{38505332;1}

CASE NO.: 16-cv-21301-GAYLES

THIS MATTER comes before the Court upon the receiver, Michael I. Goldberg's (the "Receiver") Motion for Entry of Amended Stipulated Writ of Attachment for the Stateside Contractor and Subcontractors [D.E. ___] (the "Motion").

WHEREAS, on May 24, 2016, the Receiver filed a Motion to Modify the Preliminary Injunction and/or Receivership Order to Authorize a Stipulated Writ of Attachment for the Stateside Contractor and Subcontractors to Preserve their Lien Rights [D.E. 133] ("Motion to Modify").

WHEREAS, on June 10, 2016, this Court entered an Order granting the Motion to Modify [D.E. 161] (the "June 10, 2016 Order"). At the same time, the Clerk of the District Court executed a Stipulated Writ of Attachment [D.E. 163] based on the copy attached to the Motion to Modify.

WHEREAS, the Receiver and counsel for the contractor, D.E.W. Construction Corp. seek the entry of an Amended Stipulated Writ of Attachment to conform with the format used for the Q Burke Mountain Resort project.

WHEREAS, the Court has been advised that the Securities and Exchange Commission and Defendants Ariel Quiros and William Stenger have no opposition to the Motion and the relief requested therein; and

WHEREAS, the Court finds that the Receiver has made a sufficient and proper showing in support of the relief requested;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, as follows:

1. The Motion is **GRANTED**.
2. The Clerk of the District Court is directed to execute an Amended Stipulated Writ of Attachment in the form attached hereto as Exhibit 1.

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3. All of the rights and reservations afforded to the parties in the June 10, 2016 Order remain in full force and effect.

DONE AND ORDERED in Chambers at Miami, Florida this ____ day of June, 2016.

DARRIN P. GAYLES
UNITED STATES DISTRICT COURT JUDGE

Copies to:

Counsel of Record

EXHIBIT 1

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

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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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

AMENDED STIPULATED WRIT OF ATTACHMENT

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

To any Sheriff or Constable in the State of Vermont:

By the authority of the Federal District Court of the Southern District of Florida pursuant to the Order Granting Receiver's Motion to Modify the Preliminary Injunction and/or Receivership Order to Authorize a Stipulated Writ of Attachment for the Stateside Contractors and Subcontractors to Preserve Their Lien Rights [D.E. ___] (the "Order"), a copy of which is attached to this Writ and incorporated herein, you are hereby commanded to attach the lands and premises of Jay Peak, Inc., located on Stoney Path Road and Route 242 in Jay, Vermont 05859, and described more particularly as follows:

Being a portion of land now owned by Jay Peak, Inc. with Tax ID # #148268.01-1, encompassing 2,488 acres, with the attached portion being the area of a development project known as Stateside Cottages located off Stoney Path Road, Jay, VT (the "Stateside Cottages Property").

The Stateside Cottages Property is a portion of the same land and premises conveyed to Jay Peak, Inc. by Warranty Deed of Saint-Sauveur Valley Resorts, Inc. f/k/a Saint-Sauveur Valley Resorts, Inc., Station Touristique Mont Saint-Sauveur, Inc. dated June 20, 2008 and recorded on June 25, 2008 in Volume 60, Page 296 of the Jay land records and also recorded at Book 43, Pages 511-518 of the Town of Westfield Land Records.

Also being a portion of the land and premises conveyed to Jay Peak, Inc. by Warranty Deed from the State of Vermont dated August 31, 2010 and recorded on May 26, 2011 in Volume 67, Page 270 of the Jay land records.

to the values set forth in the attached Schedule A for the Subcontractors identified therein and Schedule B for D.E.W. Construction Corp. ("DEW") (subject to the Receiver's right to object to claims, amounts, validity, timeliness, priority and any other objection to the claims), to be held to satisfy any judgment for damages and costs that may be recovered by DEW and the Subcontractors listed in such Schedules in any action against Jay Peak, Inc. and Jay Peak Hotel Suites Stateside, L.P. ("Stateside L.P."), pursuant to a contract with DEW to supply labor and materials to a project known as Stateside Cottages ("Project"), the terms of which were incorporated into DEW's contracts with the Subcontractors, and make due return of this Writ with your doings thereon.

Clerk, Federal District Court
Southern District, Florida

DATED: _____

SCHEDULE A

Subcontractor Schedule of Amounts Owed

Each subcontractor reserves the right to claim and seek additional amounts that may be owed including, but not limited to, interest, penalties, attorney's fees or damages.

SUBCONTRACTOR	CONTRACT AMOUNT OWED (Including Retainage)
Dale E.Percy	\$134,350.16
International Landscape*	\$1.00
Harrison Concrete	\$58,218.50
Tanner Masonry*	\$1.00
Jeffords Steel	\$6,330.60
Northeast Frame to Finish	\$53,432.00
Reap Construction	\$145,227.34
Nicom	\$3,586.50
Kilbury*	\$1.00
Murphy's Cell Tech	\$58,561.64
Kelley Brothers	\$139,684.78
Colchester Contracting	\$77,605.84
Cluba Painting	\$15,093.10
Chimney Sweep	\$26,157.45
Joanne's Vacuum	\$3,850.00
Howarth Group	\$217,008.50
North Country Fire Protection	\$20,517.00
Mike's Electric	\$51,366.90
	\$1,010,993.31

* Each subcontractor marked with an asterisk reserves any rights that may exist related to amounts owed, intending to perfect any Contractor Lien that may exist.

SCHEDULE B

**D.E.W. Construction Corp.
Schedule of Amounts Owed**

D.E.W. Construction Corp. amount owed (Including Retainage)	\$2,198,201.10
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D.E.W. Construction Corp. reserves the right to claim and seek additional amounts that may be owed including, but not limited to, interest, penalties, attorney's fees or damages.