

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 Defendants<sup>1</sup>

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**RECEIVER'S MOTION TO APPROVE SETTLEMENT AGREEMENT AND MUTUAL  
RELEASE WITH WATER PARK CONTRACTORS AND SUPPLIERS  
AND SUPPORTING MEMORANDUM OF LAW**

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<sup>1</sup>See 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 “Order Appointing Receiver”) [ECF No. 13], dated April 13, 2016, through undersigned counsel, hereby files this Motion to Approve the Settlement Agreement and the Mutual Release with Water Park Contractors and Suppliers. In support of this motion, the Receiver states as follows:

### **PRELIMINARY STATEMENT**

Defendant Jay Peak Hotel Suites Phase II L.P. raised \$75 million from investors to build among other things, an indoor water park (the “Water Park”) adjacent to a hotel at the base of the Jay Peak Mountain. Since it opened in 2011, the Water Park experienced problems with the suspension system supporting the fabric HVAC ducts. The Receiver retained contractors to repair the defects and sought to recover the remuneration costs from the construction manager, architect, sub-designer (engineer), installer, and manufacturer of the suspension system at the Water Park. After extensive negotiations, the parties reached a settlement whereby the Receiver will receive the sum of \$225,000 in exchange for a release of all claims relating to the Water Park, with limited exclusions, subject to approval of this Court. Through this motion, the Receiver seeks the authority to enter into the settlement and release.

### **I. BACKGROUND**

1. On April 12, 2016, the Securities and Exchange Commission (“SEC”) filed a complaint [ECF No. 1] in the United States District Court for the Southern District of Florida (the “Court”) against the Receivership Defendants,<sup>2</sup> the Relief Defendants,<sup>3</sup> William Stenger and

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<sup>2</sup> 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.,

Ariel Quiros, the principal of the Receivership Defendants, alleging that the Defendants violated the Securities Act of 1933 and the Securities Exchange Act of 1934 by making false or materially misleading representations to investors in connection with eight securities offerings.

2. The first six offerings were associated with construction and renovation at the Jay Peak ski resort and its accompanying facilities. One of those offerings included the construction of an indoor water park. Defendant Jay Peak Hotel Suites Phase II L.P. (“Hotel Phase II”) raised \$75 million from 150 investors to build a hotel, water park, ice rink, and a golf club house at the base of the Jay Peak Mountain. The Water Park opened in 2011.

3. The Water Park houses various pools and slides. Its walls and roof are clad in glass. Three sections along the center of the roof are retractable. Ventilation is supplied to the Water Park via exposed fabric HVAC ducts (commonly referred to as “duct socks”) hanging by a suspension system (the “Suspension System”).

4. Jay Peak, as owner, contracted with D.E.W. Construction, Inc. (“DEW”), as construction manager, and Black River Design Architects, PLC (“Black River”), as architect, for the design and construction of the Water Park. In turn, Ramaker and Associates, Inc. (“Ramaker”) provided engineering and sub-design services for the Suspension System; Vermont Heating & Ventilating Co. (“VHV”) installed the Suspension System; Air Distribution Corporation (“Air Distribution”) supplied/distributed the Suspension System; and FabricAir, Inc. (“FabricAir”) manufactured the Suspension System. (DEW, Black River, Ramaker, VHV, Air

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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.

<sup>3</sup> 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 shall collectively be referred to as the “Receivership Entities.”

Distribution and Fabric Air are collectively referred to as the “Water Park Contractors and Suppliers”, and along with the Receiver, are the “Parties”).

5. Construction of the Water Park was completed in 2011. The Water Park opened in November of 2011. In or about May of 2012, Jay Peak began experiencing problems with the Suspension System, specifically, the hanging mechanism that suspends large fabric air ducts from the ceiling of the Water Park. Jay Peak’s management promptly notified the Water Park Contractors and Suppliers. The Water Park Contractors and Suppliers and Jay Peak performed repairs to the Suspension System over the ensuing years, and by the time the Receiver was appointed in 2016, it became apparent that the entire Suspension System needed to be replaced with a more robust system.

6. Jay Peak retained a licensed engineer to review and survey the Suspension System. The engineer prepared a Structural Assessment of Duct Support, outlining the multiple structural failures that necessitate a new Suspension System.

7. The Receiver retained VHV to install a new Suspension System. In order to minimize park closures, VHV conducted the remediation work in two phases. The total cost of the remediation was \$296,600.

8. The Receiver looked to the Water Park Contractors and Suppliers to recover the costs of remediation. The Water Park Contractors and Suppliers denied any liability to Jay Peak, but agreed to the Receiver’s request to mediate the dispute.<sup>4</sup> The mediation took place in November of 2017. Although the Parties did not resolve the dispute at mediation, the Water Park Contractors and Suppliers later mediated among themselves and reached an agreement to pay the

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<sup>4</sup> Air Distribution did not participate in the mediation or settlement discussions and is not included in the settlement and release.

Receiver the total sum of \$225,000, with each party allocating \$45,000 to the settlement payment. A copy of the Settlement Agreement is attached hereto as Exhibit "A".

9. Moreover, the Parties agreed to exchange mutual releases, extinguishing all claims among the Parties that relate to the Water Park. The releases do not affect claims arising out of any other projects at Jay Peak. The releases do not extinguish or affect any warranties from manufacturers, suppliers or third parties who are not signatory to the settlement. A copy of the form of the Mutual Release is attached hereto as Exhibit "B".

#### **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 Water Park Contractors and Suppliers prior to initiating litigation. Through this motion, the Receiver seeks the Court's approval of his settlement and release with the Water Park Contractors and Suppliers.

"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 the Water Park Contractors and Suppliers 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 the Water Park Contractors and Suppliers. The Receiver retained an engineering firm to investigate the failures to the Suspension System and identify the parties responsible for the malfunctions to the Suspension System. The Receiver’s construction litigator reached out to the Water Park Contractors and Suppliers to amicably resolve the claims. When the Water Park Contractors and Suppliers denied liability, the Receiver invoked the terms of the construction contracts Jay Peak entered into with DEW and Black River, which required mediation prior to initiating arbitration or other litigation. Prior to accepting the settlement offered by the Water Park Contractors and Suppliers, the Receiver evaluated the defenses to be asserted to his claims 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 Water Park Contractors and Suppliers 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 provides for the payment of \$225,000, which covers the majority of the remuneration costs incurred by the receivership entities. 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 the Water Park Contractors and Suppliers 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 "C", 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 counsel for the Receiver has conferred with counsel for the SEC who does not object to this Motion or the relief requested in this Motion. Counsel for the Receiver has also conferred with 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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Joan M. Levit, Esq.

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Telephone: (954) 463-2700  
Facsimile: (954) 463-2224

*Counsel for Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this January 23, 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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Direct Dial: (305) 982-6341  
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**SECURITIES AND EXCHANGE  
COMMISSION**

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Email: swkshlag@knpa.com

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Telephone: (305) 373-1000

*Attorneys for Raymond James & Associates  
Inc.*

**EXHIBIT A**

SETTLEMENT AGREEMENT

Following mediation with the assistance of Michael Marks, Esq., the parties signing below ("Parties") have reached the following settlement agreement in reference to all of the issues arising out of or related to the following dispute: *Jay Peak Resort- Indoor Water Park* ("Claim"). This Agreement is subject to the approval of the United States District Court for the Southern District of Florida overseeing the Jay Peak receivership case. The Receiver shall promptly file a motion with the Court seeking approval. The Parties shall exchange the documents and payments required to implement the following no later than thirty days after the approval of this Agreement.

1. Payment. Jay Peak, Inc., shall receive a total settlement of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) in full settlement of the Claim. The allocation of the settlement shall be as follows: Black River Design Architects, PLC, Forty-Five Thousand Dollars (\$45,000.00); D.E.W. Construction Corp., Forty-Five Thousand Dollars (\$45,000.00); VHV Company, Forty-Five Thousand Dollars (\$45,000.00); FabricAir, Inc., Forty-Five Thousand Dollars (\$45,000.00); Ramaker and Associates, Inc., Forty-Five Thousand Dollars (\$45,000.00). In the event any of the settlement payments required by this Agreement are not made, this Agreement shall be null and void, and payments made shall be returned to the Parties making the payment.

2. Releases. The Parties shall exchange Mutual Releases, to be held in escrow by counsel pending the delivery of payments by all Parties under paragraph 1. The Releases shall extinguish all claims (whether known or unknown) among the Parties (including their agents, employees and affiliates) that were raised or could have been raised in the Claim or that relate to the Jay Peak Resort Indoor Waterpark that is the subject of the Claim. The Releases shall not affect claims arising out of any projects at Jay Peak other than the Indoor Waterpark, including, without limitations, claims by D.E.W. or Black River Design for payments for these other projects. The Settlement Agreement is not intended to release DEW's claim for payment for the following outstanding invoices ("Invoices"): (1) Renaissance Block Demolition Final Bill (5765-Application No. 004) (submitted 9/23/15) for \$7,086.67 and (2) Water Park HRU Modifications (submitted 7/2/15) \$26,162. The Settlement Agreement is not intended to release Black River Design Architects' claims for payment for

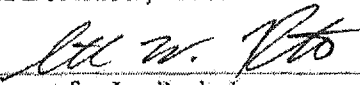
*SR BRCB*  
*1/27/18*

Invoices designated as JAYWC-Wedding Chapel and JAYM-Jay Peak Miscellaneous. Jay Peak, Black River Design Architects and D.E.W. each reserve whatever rights or defenses each may have related to the Invoices. The Releases shall not extinguish or affect any warranties from manufacturers, suppliers or third-parties who are not signators to this Agreement, or obligations of the Parties to each other under this Settlement Agreement.

3. No Suit on Claim. This agreement resolves the Claim with prejudice. Each Party shall bear its own costs, mediation fees and attorney's fees. No Party may file a suit or demand for arbitration arising out of or related to the Claim.

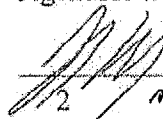
4. Miscellaneous. This is a comprehensive Agreement. All prior discussions and agreements are merged into this Agreement. This Agreement represents a compromise to avoid litigation. By making this Agreement, no Party makes any admission concerning the strength or weakness of any Claim, or acknowledges liability or fault. This Agreement may only be amended by a written instrument signed by all Parties. The Parties shall execute such additional documents as are reasonably requested to implement this Agreement. This Agreement shall be interpreted under the laws of the State of Vermont. All Parties were represented by counsel in the drafting of this Agreement. The presumption against the drafter shall not apply to the construction of this Agreement. Any participation by the mediator in the drafting of this agreement was in his capacity as mediator in recording mutually agreeable settlement terms, and does not constitute legal advice to any of the Parties. Photocopies of this Agreement shall be as effective as the original. This Agreement shall be binding and enforceable against the successors, heirs and assigns of the Parties.

Dated at Burlington, Vermont, this 22nd day of December, 2017.


  
Agent for Jay Peak, Inc.

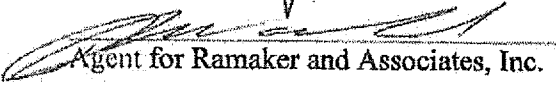
  
Agent for Black River Design Architects, PLC

  
Agent for D.E.W. Construction Corp.

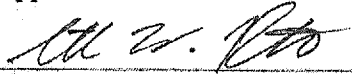
  
Agent from JAY Company

~~Agent for VHV Company~~

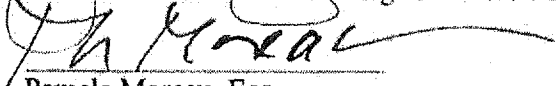
  
Agent for FabricAir, Inc.

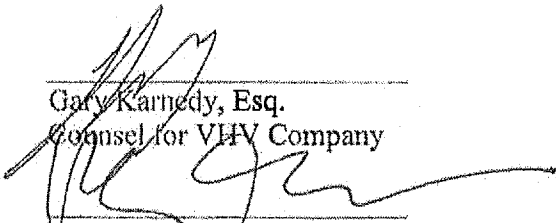
  
Agent for Ramaker and Associates, Inc.

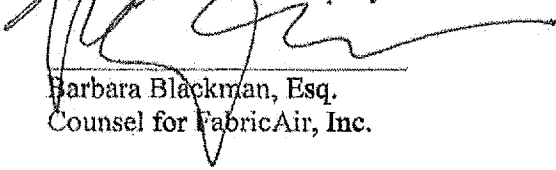
Approved as to form:

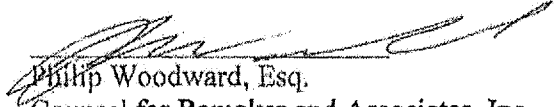
  
Scott Rostock, Esq.  
Counsel for Jay Peak, Inc.

  
James Cooley, Esq.  
Counsel for Black River Design Architects PLC

  
Pamela Moreau, Esq.  
Counsel for D.E.W. Construction Corp.

  
Gary Kameedy, Esq.  
Counsel for VHV Company

  
Barbara Blackman, Esq.  
Counsel for FabricAir, Inc.

  
Philip Woodward, Esq.  
Counsel for Ramaker and Associates, Inc.

**EXHIBIT B**

**MUTUAL RELEASE**

**KNOW ALL PERSONS BY THESE PRESENTS**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, that Jay Peak, Inc. (“Jay Peak”), Black River Design Architects, PLC (“Black River”), Ramaker and Associates, Inc. (“Ramaker”), D.E.W. Construction Corp. (“D.E.W.”), VHV Company (“VHV”), and FabricAir, Inc. (“FabricAir”) (collectively, the “Parties”), for themselves and their respective employees, agents, attorneys, representatives, principals, officers, directors, trustees, receivers, general and limited partners, members, managers, affiliates, subsidiaries, principals, insurers and all of their respective administrators, predecessors, successors, transferees, heirs and assigns and anyone purporting to act on their behalf, hereby release, discharge and covenant not to sue each other from and for any and all claims, demands, damages, costs, attorneys’ fees, lawsuits, obligations, promises, administrative actions, charges and causes of action, both known or unknown, in law or in equity, arising from or relating in any way to the construction project known as the Jay Peak Resort Indoor Waterpark (the “Project”), including, without limitation, all claims that were raised or could have been raised relating to the Project at the mediation conducted on November 6, 2017 and December 22, 2017. This mutual release expressly excludes: (i) claims by any of the Parties relating to any other construction projects at Jay Peak; (ii) D.E.W.’s claims for payment for invoices designated as Renaissance Block Demolition Final Bill (5765-Application No. 004) and Water Park HRU Modifications; and (iii) Black River’s claims for payment for invoices designated as JAYWC-Wedding Chapel and JAYM-Jay Peak Miscellaneous (collectively, the “Excluded Claims”). The Parties reserve whatever rights or defenses each may have relating to the Excluded Claims. Finally,



this mutual release shall not extinguish or affect in any way warranties from manufacturers, suppliers or third parties who are not signatories hereto, or obligations of the Parties to each other under their Settlement Agreement dated December 22, 2017.

**IN WITNESS WHEREOF** I have hereunto set my hand and seal to this Mutual Release this

\_\_\_\_\_ day of \_\_\_\_\_, 2018.

**JAY PEAK, INC.**

\_\_\_\_\_  
By:  
Title:

STATE OF FLORIDA                    )  
  ) SS:  
COUNTY OF BROWARD            )

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_ day of January, 2018, by \_\_\_\_\_, as \_\_\_\_\_ of Jay Peak, Inc., on behalf of Jay Peak, Inc. He/she is:

- personally known to me; or
- produced a driver's license issued by the Florida Department of Highway Safety and Motor Vehicles as identification; or
- produced the following identification: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

43699222;1  
43752614;1

IN WITNESS WHEREOF I have hereunto set my hand and seal to this Mutual Release this

\_\_\_\_\_ day of \_\_\_\_\_, 2018.

**BLACK RIVER DESIGN  
ARCHITECTS, PLC**

By: \_\_\_\_\_

Title:

STATE OF \_\_\_\_\_ )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_ day of January, 2018, by \_\_\_\_\_, as \_\_\_\_\_ of Black River Design Architects, PLC, on behalf of Black River Design Architects, PLC. He/she is:

personally known to me; or

produced a driver’s license issued by \_\_\_\_\_ as identification; or

produced the following identification: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

**IN WITNESS WHEREOF** I have hereunto set my hand and seal to this Mutual Release this

\_\_\_\_\_ day of \_\_\_\_\_, 2018.

**RAMAKER AND ASSOCIATES, INC.**

\_\_\_\_\_  
By:  
Title:

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_ day of January, 2018, by \_\_\_\_\_, as \_\_\_\_\_ of Ramaker and Associates, Inc., on behalf of Ramaker and Associates, Inc. He/she is:

personally known to me; or

produced a driver’s license issued by \_\_\_\_\_  
as identification; or

produced the following identification: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

**IN WITNESS WHEREOF** I have hereunto set my hand and seal to this Mutual Release this

\_\_\_\_\_ day of \_\_\_\_\_, 2018.

**D.E.W. CONSTRUCTION CORP.**

\_\_\_\_\_  
 By:  
 Title:

STATE OF \_\_\_\_\_ )  
 ) SS:  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_ day of January, 2018, by \_\_\_\_\_, as \_\_\_\_\_ of D.E.W. Construction Corp., on behalf of D.E.W. Construction Corp. He/she is:

- personally known to me; or
- produced a driver's license issued by \_\_\_\_\_ as identification; or
- produced the following identification: \_\_\_\_\_

\_\_\_\_\_  
 NOTARY PUBLIC, STATE OF \_\_\_\_\_

\_\_\_\_\_  
 (Print, Type or Stamp Commissioned Name of Notary Public)

**IN WITNESS WHEREOF** I have hereunto set my hand and seal to this Mutual Release this

\_\_\_\_\_ day of \_\_\_\_\_, 2018.

**VHV COMPANY**

\_\_\_\_\_  
By:  
Title:

STATE OF \_\_\_\_\_ )  
   ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_ day of January, 2018, by \_\_\_\_\_, as \_\_\_\_\_ of VHV Company, on behalf of VHV Company. He/she is:

- personally known to me; or
- produced a driver's license issued by \_\_\_\_\_ as identification; or
- produced the following identification: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)



**EXHIBIT C**



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 Defendants<sup>1</sup>

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**ORDER APPROVING RECEIVER'S SETTLEMENT AND MUTUAL RELEASE  
WITH WATER PARK CONTRACTORS AND SUPPLIERS**

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

**THIS MATTER** comes before the Court upon the receiver, Michael I. Goldberg's (the "Receiver") Motion to Approve Settlement Agreement and Mutual Release with Water Park Contractors and Suppliers (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 Receiver is authorized to enter into the Settlement Agreement and the Mutual Release (jointly, the "Settlement Documents") with D.E.W. Construction, Inc., Black River Design Architects, PLC, Ramaker and Associates, Inc., Vermont Heating & Ventilating Co. and FabricAir, Inc., in the forms attached to the Motion as Exhibit "A" and Exhibit "B" 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 January 2018.

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DARRIN P. GAYLES  
UNITED STATES DISTRICT COURT JUDGE

Copies to:  
Counsel of Record