

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<sup>1</sup>,  
AnC BIO VT, LLC,<sup>2</sup>

Additional Receivership Defendants.

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

<sup>2</sup>See Order Granting Receiver's Motion for Entry of an Order Clarifying that AnC Bio VT, LLC is included in the Receivership or in the Alternative to Expand the Receivership to include AnC Bio VT, LLC, *Nunc Pro Tunc* dated September 7, 2018 [ECF No. 493].

## **RECEIVER'S SEVENTH INTERIM REPORT**

Michael I. Goldberg, in his capacity as receiver (the "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, respectfully files his Seventh Interim Report covering the period from April 30, 2019 up to and including September 30, 2019.<sup>3</sup>

### **PRELIMINARY STATEMENT**

During the period covered by this report, the Receiver, along with his professionals, have been engaged in marketing the Jay Peak Resort for sale. The Receiver has also sold several stand-alone properties and placed the proceeds of such sales in trust. The Receiver has continued to pursue claims against third parties who may be liable to the receivership estate for their pre-receivership conduct. Finally, the Receiver has also been focusing on providing investors with the information they need in order to have their I-526 and I-829 petitions approved by USCIS as well as working with investors' counsel in preparing mandamus petitions to compel USCIS to rule on pending petitions.

#### **I. BACKGROUND**

On April 12, 2016, the Securities and Exchange Commission ("SEC") filed a complaint ("Complaint") [ECF No. 1] in the United States District Court for the Southern District of Florida (the "Court") against the Receivership Defendants,<sup>4</sup> the Relief Defendants,<sup>5</sup> William

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<sup>3</sup> For the purpose of brevity, the Receiver has endeavored not to restate information contained in the prior Status Reports, but refers all interested parties to those Status Reports for additional information including a detailed description of the Receivership Defendants and the events that led up to the appointment of the Receiver.

<sup>4</sup> 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

Stenger and Ariel Quiros (collectively, the “Defendants”). The Complaint alleged that Mr. Quiros and Mr. Stenger, in violation of federal securities laws, controlled and utilized the various Receivership Entities in furtherance of a fraud on the investors who participated in limited partnerships offered under the federally created EB-5 visa program. The first six limited partnerships (Phase I – Phase VI) raised funds to develop and expand the Jay Peak ski resort and its accompanying facilities located in Jay, Vermont (the “Jay Peak Resort”). The seventh limited partnership, Phase VII, raised funds to purchase land and develop a biomedical research facility in Newport, Vermont (the “AnC Bio Project”). An eighth limited partnership, Phase VIII, which was not originally part of the receivership,<sup>6</sup> funds to develop and expand the Burke Mountain Hotel and ski area located in East Burke, Vermont (the “Burke Mountain Resort”).

Along with the Complaint, the SEC requested the Court enter a temporary restraining order and a preliminary injunction preventing the Receivership Defendants from, among other things, transferring or otherwise utilizing their assets. On April 13, 2016, the Court entered the Receivership Order and granted the SEC’s Emergency *Ex Parte* Motion for Temporary Restraining Order, Asset Freeze and Other Relief [ECF No. 4]. Among other things, the Receivership Order appointed Michael Goldberg as the receiver over the Receivership Defendants and the Relief Defendants. On April 22, 2016, the Court entered an Order expanding the receivership to include Q Burke Mountain Resort, Hotel and Conference Center, L.P. and Q Burke Mountain Resort GP Services, LLC as Additional Receivership Defendants [ECF No. 60].

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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.

<sup>5</sup> 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”.

<sup>6</sup> See fn. 1.

On September 7, 2018, the Court entered an Order granting Receiver's motion to clarify that AnC Bio VT, LLC is included in the receivership or to expand the receivership to include AnC Bio VT, LLC, *nunc pro tunc* to the inception of the case. [ECF No. 493]

The SEC resolved its disputes with Mr. Quiros and Mr. Stenger. On February 5, 2018, the Court entered an Order [ECF No. 449] establishing a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 to allow the distribution of the civil penalties paid by Quiros and Stenger, along with the disgorgement and prejudgment interest paid by Quiros, to defrauded Jay Peak investors. On the same date, the Court entered Final Judgments against Mr. Quiros and Mr. Stenger setting forth the amount of disgorgement, prejudgment interest on disgorgement and civil penalty. The Final Judgment against Mr. Quiros [ECF No. 450, as amended by ECF No. 474] holds him liable for \$81,344,166 of disgorgement, representing profits gained as a result of the conduct alleged in the Amended Complaint, prejudgment interest on disgorgement of \$2,515,798, and a civil penalty of \$1,000,000, for a total of \$84,859,964. The Final Judgment against Mr. Quiros also provides that Mr. Quiros shall satisfy his obligations by disgorging certain real property, including the rights to the Jay Peak and Burke Mountain resorts, and other assets to the Receiver.<sup>7</sup> Mr. Quiros has executed deeds transferring ownership of properties to the Receiver.<sup>8</sup> The Final Judgment against Mr. Stenger [ECF No. 451] ordered him to pay a \$75,000 civil penalty (the SEC did not seek disgorgement from Mr. Stenger) in three installments. Mr. Stenger has completed payment of his civil penalty.

## **II. ACTIONS TAKEN BY THE RECEIVER DURING THE REPORTING PERIOD**

### **A. Management of Vermont Properties**

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<sup>7</sup> The Receiver is uncertain as to the value of these properties.

<sup>8</sup> On March 2, 2018, the Court entered an Order [ECF No. 458] modifying the asset freeze against Quiros [ECF No. 11 and 238] solely to allow the transfer of certain bank accounts and real property to the Receiver in satisfaction of Quiros' disgorgement obligations. The asset freeze has recently been fully terminated upon Quiros satisfying all of his obligations under his settlement agreement with the SEC.

The Receiver, with the assistance of the court-approved management company, Leisure Hotels, LLC (“Leisure”) continue to operate the Jay Peak Resort and the Burke Mountain Hotel. Jay Peak Resort’s General Manager, Steven Wright and Burke Mountain Hotel’s General Manager, Kevin Mack also play an important role in the management of the resorts. The Receiver confers with the Leisure management team, Steven Wright and Kevin Mack on a regular basis to monitor the hotels’ operations.

The Jay Peak Resort (Phases I through VI) continue to operate profitably and its net operating income continues to increase. (See more detailed description below). The Burke Hotel continues to lose money, however, such a loss is expected for a new hotel. The operating losses have diminished year after year since the date that the Burke Hotel opened in September 2016. It is hopeful that the Burke Hotel will soon operate at a breakeven level or even generate a small profit. Please see the Financial Affairs section of this report for more detailed information on the financial condition of the Jay Peak Resort and the Burke Mountain Hotel.

**B. Future Plans to Sell the Jay Peak Resort and the Burke Mountain Hotel**

**1. Jay Peak Resort**

For the past seven months, the Receiver, along with Houlihan Lokey (“HL”), the investment bank retained by the Receiver to assist in the sale of the Jay Peak Resort, have been actively marketing the Jay Peak Resort to potential buyers. To that end, commencing in the spring of 2019, HL contacted 137 potential purchasers, including potential strategic and financial buyers, located throughout the United States, Europe and Asia. Of that group, 46 potential buyers executed Non-Disclosure Agreements (“NDAs”). Of that group, nine potential buyers have submitted initial Indications of Interest.<sup>9</sup> Three additional potential buyers have expressed

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<sup>9</sup> The identity of these parties is not being disclosed for confidentiality reasons.

interest and provided informal initial pricing guidance, but did not formally submit a bid. The Receiver expects that at least one of this group will ultimately submit a bid.

HL and Jay Peak's management team have hosted five groups for site visits at the Jay Peak Resort and meetings with the Jay Peak Resort's management team. Twenty-one potential investors who executed NDAs have formally passed on the opportunity following a review of the offering materials. The Receiver and HL continue to work with the remaining potential buyers to resolve potential issues and attempt to structure a potential transaction that will maximize the recovery for the Phase II through Phase VI investors.

The Receiver is unsure when a transaction will close, but is hopeful that a sale transaction can be consummated by summer, 2020. The Receiver is not sure of what price the Jay Peak Resort will ultimately sell for, however, based upon the level of interest to date, the Receiver is fairly certain that Phase II through VI will incur a significant loss of their principal investment, absent a significant litigation recovery. The Receiver wants to assure all investors that he and his professionals are doing their best to obtain the highest possible price for the resort by conducting a vigorous and fully transparent sales process. The proceeds of the sale of the Jay Peak Resort when sold shall be, subject to the Court's approval, distributed on a *pro-rata* basis to all investors in the Jay Peak Resort Phase II – Phase VI.

## **2. Burke Mountain Resort**

Since construction of the Burke Mountain Hotel has not yet generated sufficient jobs for all of the investors in the project, the Receiver has decided not to sell the hotel property at this junction because the sales price based on current financial performance would be extremely low. However, the Receiver has sold other land owned by Burke 2000 LLC that is not necessary for

the operation of the hotel and ski area. The Receiver may continue to market stand-alone parcels prior to the sale of the Burke Mountain Hotel.

**E. Litigation and Third Party Claims**

**1. Goldberg v. Kelly**

The Receiver filed a Complaint against William Kelly, the former owner of Relief Defendant North East Contract Services, Inc. (“NECS”), *Goldberg v. Kelly*, Case No. 17-cv-62157 (S.D. Fla.). The claims against Kelly arise from allegedly improper payments NECS and/or Kelly received from Receivership Defendant AnC Bio Vermont GP Services LLC in connection with the now defunct AnC Bio Project. The Receiver asserts that Kelly wrongfully assumed control of the improperly paid funds and subsequently diverted the funds to other recipients instead of returning the funds. In light of Kelly’s indictment, the court has stayed the case pending the outcome of the criminal proceedings against him. The Receiver will pursue the case once the criminal case against Kelly concludes and the stay is lifted.

**2. Ironshore Indemnity, Inc.**

From 2011 to 2015, Ironshore Indemnity, Inc. (“Ironshore”) issued a series of \$10 million Directors, Officers and Private Company Liability Insurance Policies (the “Policies”) to Q Resorts, Inc. The Policies insured the Receivership Entities and its officers and directors for certain events caused by acts of Q Resorts, Inc.’s management, including, specifically, investigations and claims brought by the Securities and Exchange Commission.

Immediately after the SEC sued Mr. Quiros and the Receivership Entities, the Receiver provided notice to Ironshore and sought coverage under the Policies. Ironshore denied coverage, claiming that it had never before received notice of a claim, even though the SEC began its investigation of the Receivership Entities three years earlier, in 2013. The Receiver and Quiros

filed an action against Ironshore seeking a declaration that coverage existed under the Policies. The case, *Quiros v. Ironshore Indemnity, Inc.*, Case No. 16-cv-25073-MGC was filed in the United States District Court for the Southern District of Florida (the “Ironshore Action”). Two weeks before trial, and one week before the hearing on competing summary judgment motions, the Receiver and Quiros settled the Ironshore Action for \$1.9 million, payable in tranches, with the final payment – \$500,000.00 – due upon the issuance of a final bar order enjoining any other claims against Ironshore in connection with the Policies (the “Ironshore Settlement”).

The Receiver moved for approval of the Ironshore Settlement and entry of the requested bar order. Quiros’s former attorneys, including Mitchell Silberberg & Knupp, LLP (“MSK”) (collectively, the “Law Firms”), objected to the Ironshore settlement. This was ironic, because MSK was the firm that was representing Quiros and the Receivership Entities during the time of the SEC investigation and, as a result, neglected to give notice under the Policies. The District Court in the SEC Action approved the Ironshore Settlement over the Law Firms’ objection and entered the requested bar order. The Law Firms appealed entry of the settlement bar order. Their appeal is currently pending in the Eleventh Circuit Court of Appeals, *Leon Cosgrove, LLP et al. v. Quiros et al.*, Case No. 19-11409-CC. The parties have completed their briefing.

### **3. David Gordon and Mitchell Silberberg & Knupp, LLP**

David Gordon and MSK represented the Receivership Entities and other individuals, including Quiros, during the SEC investigation of the Receivership Entities. The Receiver contends that MSK, in representing the Receivership Entities, breached its duties and failed to provide reasonably adequate legal services to the Receivership Entities, causing the continued violations of federal securities laws and continued commingling and misappropriation of



partnership funds. Among other things, the Receiver alleges that MSK failed to advise the Receivership Entities to stop the misuse and commingling of investor funds, tried to concoct stories to justify the past and continued commingling of partnership funds and, even worse, misled the SEC and the Vermont regulators to allow the Receivership Entities to continue raising and misusing funds. In other words, had MSK advised the Receivership Entities that their financial dealings and model were violating federal securities laws (among other laws), the Receivership Entities would not have continued fundraising and misusing funds.

MSK also failed to advise the Receivership Entities of their rights under the \$10 million D&O Policies discussed above and failed to provide notice to Ironshore of the SEC's investigation, which resulted in Ironshore denying coverage for legal fees and costs during the investigation and even after the SEC sued the Receivership Entities. As a result of the foregoing, the Receiver sued MSK in the United States District Court for the Southern District of Florida, *Goldberg v. Mitchell Silberberg & Knupp, LLP et al.*, Case No. 1:19-cv-21862-MGC. This action is pending and the parties are currently engaged in discovery.

#### **4. Claims Against Other Third Parties**

The Receiver and his professionals continue to investigate and evaluate potential claims against other persons and companies involved with the Receivership Entities. The Receiver's litigation attorneys have prepared subpoenas *duces tecum* to professionals who previously performed work with the Receivership Entities as part of their investigation of possible claims that may be asserted by the Receiver and in order to identify concealed or fraudulently transferred receivership assets and causes of action. The Receiver intends to pursue recovery of fraudulently transferred assets or the proceeds thereof from third parties. The Receiver has

negotiated tolling agreements with a number of third parties and intends to bring additional lawsuits in the future.

## **5. Document Recovery**

The Receiver continues to maintain and update an electronic database to store documents produced by financial institutions and all pre-receivership servers and other data recovered from the files of the Defendants. An e-discovery vendor hosts such electronic files and permits the Receiver's professionals searchable access. This system also allows the Receiver's professionals to share information and efficiently respond to discovery requests in related litigation.

## **III. FINANCIAL AFFAIRS<sup>10</sup>**

### **A. Bank Accounts**

The Receivership Entities' financial accounts were frozen pursuant to the Receivership Order. The Receivership Order also provides the Receiver with control and signatory authority for all financial accounts. *See* Receivership Order, ¶ 7. The Receiver and his staff maintain receivership bank accounts and pay administrative expenses. The Receiver's staff has opened new bank accounts for the purpose of segregating the proceeds of the RJ Settlement and distributing payment to investors, contractors and other creditors.

Attached to this Report as **Exhibit "A"** is a Standard Fund Accounting Report ("SFAR") for the period of December 31, 2018 through September 30, 2019, and cash flow statements for the operating Receivership Entities detailing the Receivership Entities' business operations.

### **B. Jay Peak Resort**

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<sup>10</sup> Because this receivership involves operating entities, the confidentiality of the Receivership Entities' financial data is important. Accordingly, the Receiver has not attached detailed financial statements to this report, but has instead provided a general summary. Should the Court want to review such detailed financial data, the Receiver shall provide the information to the Court in-camera.

Jay Peak has seen a rebound within its long-lead segments in both wedding and conference business. Weddings are forecasting to beat both year-over-year comparatives (+9%) and budget (+11%), while conferences, still a bit sluggish after several issues relating to the sales staffing, show a more modest year-over-year increase (+2%) and to budget (+5%). These numbers include consumed business to date (as of 9-30-2019) and forecast through the end of wedding and conference Season (12-1-2019).

Overall, Jay Peak is forecasting its summer business to come in flat to slightly up to its May 1<sup>st</sup> through November 1<sup>st</sup> budget (forecasting an actual of roughly \$11.2 million versus a budget of \$11 million). Highlights are broken out below in the Highlights section.

Jay Peak's new athletic fields have seen good responses from various sports segments but suffered, as did golf, from a cold/wet May and June in northern Vermont with nearly 15 inches of rain in the first six weeks of the fiscal year. Projections going forward still look positive and are broken out in more detail below.

Golf season has seen a reduction of 800 rounds to year-over-year (10,800 in 2018, versus a projected 10,000 in 2019). This is, likely, the result of a sluggish start across May and most of June. Still, even with an 8% reduction in rounds, the golf segment will still increase its net profitability by 2% year-over-year given a reduction in both labor and operating expenses.

Jay Peak's early-season booking deadline for this upcoming winter just ended and pace has been strong. As of September 30, 2019, Jay Peak has \$4.6 million of Lodging and Package business on the books. At this point, Jay Peak is pacing three percent ahead of year-over-year numbers, and it is presently 65% away from meeting its full winter budget of \$12 million. The months of November (+5% to pace), January (+9% to pace) and March (+20% to pace) are looking particularly strong. Given some shifting of holiday periods in December, Jay Peak is

likely to see December compare negatively to year-over-year December, but Jay Peak will be looking at the months of December and January combined for a true representation of its holiday periods and, as of September 30, 2019, that combination of months is showing three percent growth.

Ski Pass sales have also increased. With the early-rate deadline approaching (October 14), Jay Peak is pacing favorably to year-over-year in both unit sales (+2%) and corresponding revenue (4%). Management expects similar pace to continue and considers this very positive news given the heavy integration of Vail Corp and Alterra's aggregated pass offerings new to the competitive markets this season.

Overall resort labor, as of the end of week 23 (10-5-2019) comes in at \$4.9 million versus a year-over-year \$4.925 million, a reduction of \$25,000 across the first 23 weeks. Against budget, \$5.7 million, the savings are more significant (800K). This is a result of paring back onboarding schedules to meet a decreased demand across several departments and difficulties in finding and staffing several positions across multiple departments. Jay Peak anticipates this hiring environment to improve and have already seen examples of it doing so.

Through the first 5 months of Fiscal Year 20, resort EBITDA is forecasted to be flat versus year over year numbers (Fiscal September is still being closed). In summary, the following compares certain important data for September 30, 2018 to September 30, 2019 (unless otherwise noted\*):

- Wedding business up 9% year-over-year
- Conference business up 2% year-over-year
- Golf rounds off by 8%
- Golf Department profitability up 2%

- Overall Summer business (forecasted\*) up 2% year-over-year
- Winter Package Bookings up 3% year-over-year
- November +5% year-over-year
- January +9% year-over-year
- March +20% year-over-year
- Early season pass sales +2% in unit sales
- Early season pass sales +4% in revenue
- Overall resort labor down (\$25K) through 10-5-19
- Overall Resort Expenses down (\$50K) through 10-5-19
- Overall Resort EBITDA is flat to year-over-year numbers as of 10-5-19.

**C. Burke Mountain Resort**

The Burke Mountain Hotel and Conference Center's first full financial year was FY17. Since the grand opening the property has continued to grow revenue and guest nights as the resort has attracted retail and group business. This success shows during both the winter months, supported by ski operations, as well as during the summer months when biking, wedding and events provide a strong summer revenue.

A strong winter and continued growth in summer occupancy in FY 20 will be supported by the second full year of our marketing campaign and growth in group sales will result in strong year-over-year increases. An increase in ADR and strategic use of two-night minimums will support hotel revenue growth. Burke Mountain Resort expects to open for winter operations on Nov. 23, 2019, weather permitting. Investments in snowmaking and IT infrastructure during the summer will increase operating efficiencies in several key areas at the resort. High energy efficiency snowmaking equipment, improved pipe infrastructure and a new snowmaking ski trail

are critical improvements made in 2019 which will positively impact the guest experience in the upcoming winter. Other resort improvements are expected to help lower energy costs across the resort. Ski season pass sales for the upcoming 2019-2020 season are trending 14% ahead in revenue and 11% in total units sold.

The Bike Park opened on May 25, 2019 and closed operations on Oct. 14, 2019. Revenue grew 30% year-over-year and paid guests were up 67% year-over-year. Hotel operations during the period show sales up 23%, paid rooms up 23% and a 19% increase in total overnight guests. Total resort sales have increased 18% year-over-year through August. In short, hotel revenue is trending in a positive direction and is expected to continue that way.

**Hotel Snapshot: Fiscal years ending Sept. 30, 2018 and Sept. 30, 2019**

	FY 2018	FY 2019	Increase	% change	FY 20 Budget
Hotel Revenues	\$2,136,973	\$2,569,433	\$432,461	20%	\$2,801,836
Conference Revenues	\$400,349	\$474,706	\$74,356	19%	\$760,456
Hotel Rooms	12,960	15,981	3,021	23%	16,306
Hotel # of guest	31,655	37,784	6,129	19%	46,473

**Bike Operations Snapshot: Fiscal years ending Sept. 30, 2018 and Sept. 30, 2019**

	FY 2018	FY 2019	Increase	% change	FY 20 Budget
Bike Park Revenues	\$213,482	\$277,175	\$63,694	30%	\$303,745
Paid guests	4,745	7,922	3,177	67%	8,654
Season Pass visits	594	1,088	494	83%	1,347

#### IV. ADMINISTRATION OF THE RECEIVERSHIP ESTATES

The Receiver continues to utilize the skills of his professionals, including his general counsel Akerman LLP; special litigation and conflicts counsel Jeffrey Schneider and Levine Kellogg Lehman Schneider & Grossman LLP; and immigration counsel H. Ron Klasko and Klasko Immigration Law Partners. Soneet Kapila, CPA, and the accounting firm Kapila

Mukamal provide accounting and forensic work for the Receiver. Downs Rachlin Martin PLLC, the largest law firm in Vermont is assisting the Receiver in land use matters.

**A. Website/Ongoing Communications**

The Receiver continues to communicate with government officials, creditors, contractors and interested parties. The Receiver continues to respond to inquiries, usually through e-mail and telephone calls. The Receiver returned to Vermont in January for meetings. The Receiver and his staff continue to respond to inquiries from investors, creditors and other interested parties. The Receiver continues to maintain a toll-free investor hotline at (800) 223-2234, an email address for general inquiries [jaypeak@akerman.com](mailto:jaypeak@akerman.com), and a website [www.JayPeakReceivership.com](http://www.JayPeakReceivership.com) to provide up to date information for investors and interested parties. The Receiver has posted copies of court filings, correspondence with investors and other pertinent information on the website. The Receiver has also prepared and posted numerous updates on his website, including letters to investors. The Receiver will continue to utilize the website as the primary method of communicating with investors, creditors and other interested parties throughout the receivership.

**B. Recommendations**

The Receiver continues to secure and maintain the assets of the Receivership Entities, analyze the use of the individual partnership funds and respond to inquiries from the investors, creditors and other interested parties. The Receiver anticipates taking the following actions: (i) continue to operate and maintain the facilities until the best course of disposition is determined with the goal of each investor obtaining the highest possible return on their investment and achieving their unconditional green card; (ii) provide information to investors to satisfy their EB-5 job creation requirements; (iii) continue to pay the allowed claims of creditors and investors;

(iv) investigate and commence litigation against third parties who may be liable for the perpetration of the Receivership Defendants' fraud; (v) continue to review transfers of the individual partnership funds and seek to recover funds which were fraudulently transferred; (vi) respond to inquiries from investors, creditors, government officials and interested parties; and (vii) provide updates through the receivership website.

Dated: October 16, 2019.

Respectfully submitted,

By: /s/ Michael I. Goldberg  
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*Court Appointed Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this October 16, 2019 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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