

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,

JAY CONSTRUCTION MANAGEMENT, INC.,  
GSI OF DADE COUNTY, INC.,  
NORTH EAST CONTRACT SERVICES, INC.,  
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants, and

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

Additional Defendants

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**NOTICE OF PROCEEDINGS TO APPROVE  
SETTLEMENT AMONG RECEIVER, PUTATIVE  
CLASS PLAINTIFFS, AND MSK, AND BAR ORDER**

PLEASE TAKE NOTICE that Michael I. Goldberg, as the Court-appointed receiver (the “**Receiver**”) of the entities (the “**Receivership Entities**”) in the above-captioned civil enforcement

action (the “**SEC Action**”), has filed a request for approval of a proposed settlement between: a group of investors that filed a complaint in the United States District Court for the District of Vermont (“**Putative Class Plaintiffs**”); the Receiver; and Mitchell Silberberg & Knupp, LLP (including, but not limited to, as successor-in-interest to Richardson & Patel LLP), David B. Gordon, and David B. Gordon, a Professional Corporation (collectively, “**MSK**”). The proposed settlement settles all claims that were and could have been asserted against MSK by the Putative Class Plaintiffs or the Receiver; such settlement is **expressly conditioned** on the Court approving the Settlement Agreement and including in the order approving such Settlement Agreement a provision permanently barring, restraining and enjoining any person or entity from pursuing claims, **including claims you may possess**, against any of the MSK Released Parties relating to the SEC Action or any of the other EB-5 Actions (as defined therein), or otherwise relating in any way to any of the Receivership Entities, the Receivership Estate, or which arise directly or indirectly from MSK’s activities, omissions, or services, or alleged activities, omissions, or services, in connection with the Receivership Entities, the Receivership Estate, the Jay Peak Resort, AnC Bio, or the Burke Mountain Hotel, to the broadest extent permitted by law (the “**Bar Order**”).<sup>1</sup>

PLEASE TAKE FURTHER NOTICE that the material terms of the Settlement Agreement are that MSK shall pay or cause to be paid the sum of Thirty Two Million Five Hundred Thousand Dollars (\$32,500,000.00), in exchange for broad releases from the Putative Class Plaintiffs, the Receiver, and the Receivership Entities, and entry of the Bar Order.

PLEASE TAKE FURTHER NOTICE that the Settlement Agreement establishes an Attorneys’ Fund to reimburse costs and compensate the attorneys for the Putative Class Plaintiffs.

PLEASE TAKE FURTHER NOTICE that copies of the Settlement Agreement; the Motion for (i) Approval of Settlement between Receiver, Putative Class Plaintiffs, and MSK; (ii) Approval of Form, Content, and Manner of Notice of Settlement and Bar Order; (iii) Entry of Bar Order; and (iv) Scheduling a Hearing; with Incorporated Memorandum of Law [D.E. 667] (the “**Motion**”); the proposed Bar Order; and other supporting and related papers, may be obtained from the Court’s docket in the SEC Action or from the website created by the Receiver ([www.JayPeakReceivership.com](http://www.JayPeakReceivership.com)). Copies of the Motion may also be obtained by email request to Kimberly Smiley at [kimberly.smiley@akerman.com](mailto:kimberly.smiley@akerman.com) or by telephone by calling Ms. Smiley at 954-759-8929.

PLEASE TAKE FURTHER NOTICE that the final hearing on the Motion, at which time the Court will consider approval of the Settlement Agreement including the grant of the releases and the issuance of the Bar Order, is set by Zoom before the Honorable Darrin P. Gayles, the United States Courthouse, 400 North Miami Avenue, Miami, Florida 33128, in Courtroom 11-1, at 10:00 a.m. on July 29, 2021 (the “**Final Approval Hearing**”). The link for the Zoom hearing will be circulated before the Final Approval Hearing.

Any objection to the Settlement Agreement, the Motion or any related matter, including, without limitation, entry of the Bar Order, must be filed, in writing, with the Court in the SEC Action, and served by email and regular mail, on: (1) Michael I. Goldberg, Esq., Akerman LLP,

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<sup>1</sup> Defined terms used but not defined in this Notice are more fully defined in the Settlement Agreement.

The Main Las Olas, 201 East Las Olas Boulevard, Suite 1800, Fort Lauderdale, FL 33301, Email: [michael.goldberg@akerman.com](mailto:michael.goldberg@akerman.com); (2) Jeffrey C. Schneider, Esq., Levine Kellogg Lehman Schneider + Grossman, LLP, 201 S. Biscayne Blvd., 22<sup>nd</sup> Floor, Miami, FL 33131, Email: [jcs@lklsg.com](mailto:jcs@lklsg.com); (3) Harley S. Tropin, Esq., Tal J. Lifshitz, Esq., Kozyak Tropin & Throckmorton, LLP, 2525 Ponce de Leon Boulevard, Miami, FL 33134, Email: [hst@kttlaw.com](mailto:hst@kttlaw.com) and Email: [tjl@kttlaw.com](mailto:tjl@kttlaw.com); (4) David R. Atkinson, Esq., Stephen C. Richman, Esq., Gunster, Yoakley & Stewart, P.A., 777 South Flagler Drive, Suite 500 East, West Palm Beach, FL 33401, Email: [datkinson@gunster.com](mailto:datkinson@gunster.com) and Email: [srichman@gunster.com](mailto:srichman@gunster.com); and (5) Richard B. Sheldon, Esq., General Counsel, Mitchell Silberberg & Knupp LLP, 2049 Century Park East, 18<sup>th</sup> Floor, Los Angeles, CA 90067, Email: [rbs@msk.com](mailto:rbs@msk.com), **no later than June 29, 2021 (the “Objection Deadline”)**, and such objection must be made in accordance with the Court’s Order (I) preliminarily approving settlement between Receiver, Putative Class Plaintiffs, and MSK; (II) approving form and content of notice, and manner and method of service and publication; (III) setting deadline to object to approval of settlement and entry of bar order; and (IV) scheduling a hearing [D.E. 668] (the “Preliminary Approval Order”).

PLEASE TAKE FURTHER NOTICE that any person or entity failing to file an objection on or before the Objection Deadline and in the manner required by the Preliminary Approval Order shall not be heard by the Court, shall be deemed to have waived the right to object (including any right to appeal) as well as to appear at the Final Approval Hearing, and shall be forever barred from raising such objection in this action or any other action or proceeding, subject to the discretion of this Court. Those wishing to appear and present objections at the Final Approval Hearing must include a request to appear in their written objection. **If no objections are timely filed, the Court may cancel the Final Approval Hearing without further notice.**

**This matter may affect your rights. You may wish to consult an attorney.**

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