

On October 18, 2022, this Court appointed Mr. Cort Thomas as receiver over several identified corporations associated with the Defendant Mr. Timothy Barton. Many of those corporations own hard commercial real estate assets for the receiver's examination.

On the second day of his receivership, with no notice to counsel for Mr. Barton, Mr. Thomas is standing outside the personal residence of Mr. Barton—as this motion is filed—seeking to kick him out and render him homeless. The receiver is citing his authority under paragraph 1 of the Receivership Order to “take exclusive . . . possession of any other entities that Defendant Timothy Barton directly or indirectly controls.” Mr. Barton's personal residence at 4107 Rock Creek Drive, in Dallas, is owned by SF Rock Creek LLC, a limited liability corporation whose sole purpose is to own Mr. Barton's personal residence. That company is not among 27 companies specifically listed in the Court's order.

The Court did not place Mr. Barton individually into receivership. The Defendant respectfully requests that this Court amend paragraph 1 of its Order to strike the term “any other entities that Defendant Timothy Barton directly or indirectly controls, including but not limited to” and replace that phrase with the word “and.” The Court should require the receiver, if he deems that an entity other than the 27 specifically identified in the order has received investor funds, to request that the Court add that entity to his receivership. At a minimum, the Court should alter its order to exempt Mr. Barton's personal residence at 4107 Rock Creek Drive in Dallas from the scope of the Mr. Thomas's receivership.

The point of the receivership is to gather commercial real estate assets for the alleged investors in this matter, not to leave the defendant homeless as he prepares to defend himself in a criminal trial. There is no reason to believe that the Court, when entering the Receivership Order, intended that the receiver have this broad power to molest Mr. Barton and his family at

their private property, while in the midst of preparing his defense to the criminal proceedings that the Department of Justice continues to pursue against him.

For the foregoing reasons, Mr. Barton respectfully requests modification of the Receivership Order as stated.

Dated: October 20, 2022

Respectfully submitted,

By: /s/ Michael J. Edney

Michael J. Edney

medney@huntonak.com

Sean B. O'Connell

State Bar No. 24103142 (*application for admission forthcoming*)

soconnell@huntonak.com

Michael Dingman

Virginia Bar No. 95762

DC Bar No. 90001474 (*application for admission forthcoming*)

mdingman@huntonak.com

HUNTON ANDREWS KURTH LLP

2200 Pennsylvania Avenue NW

Washington, DC 20037

Phone: (202) 955-1500

Facsimile: (202) 778-2201

Ted A. Huffman

State Bar No. 24089015

thuffman@huntonak.com

HUNTON ANDREWS KURTH LLP

1445 Ross Avenue, Suite 3700

Dallas, Texas 75202

Phone: (214) 979-3000

Facsimile: (214) 740-7110

COUNSEL FOR TIMOTHY LYNCH BARTON

CERTIFICATE OF SERVICE

On October 20, 2022 I filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas. I hereby certify that I have served the document on all counsel and/or pro se parties of record by a manner authorized by Federal Rules of Civil Procedure 5(b)(2).

/s/ Ted A. Huffman _____
Ted A. Huffman

Option 1: In paragraph 1 of the Receivership Order, the following language is stricken and replaced by the word “and”: “any other entities that Defendant Timothy Barton directly or indirectly controls, including but not limited to.” In addition, the following sentence is added to the end of paragraph 1: “The receiver may request that additional entities be added to his receivership upon application to the Court showing that such an additional entity received investor funds.” As amended, paragraph 1 now provides:

This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, including all tangible and intangible property, of Wall007, LLC, Wall009, LLC, Wall010, LLC, Wall011, LLC, Wall012, LLC, Wall016, LLC, Wall017, LLC, Wall018, LLC, Wall019, LLC, Carnegie Development, LLC, DJD Land Partners, LLC, LDG001, LLC, and the following Barton-controlled entities that received investor funds, real property interests purchased with investor funds, or own property interests that were improved with or otherwise have benefited from the use of investor funds: BM318 LLC; D4DS LLC; D4FR LLC; D4KL LLC; Enoch Investments LLC; FHC Acquisition LLC; Goldmark Hospitality LLC; JMJ Acquisitions LLC; JMJ Development LLC; JMJAV LLC; JMR100 LLC; Lajolla Construction Management LLC; Mansions Apartment Homes at Marine Creek LLC; MO 2999TC, LLC; Orchard Farms Village LLC; Villita Towers LLC; and 126 Villita LLC (collectively, “Receivership Entities”). The assets of these Receivership Entities are referenced below as “Receivership Assets.” The receiver may request that additional entities be added to his receivership upon application to the Court showing that such an additional entity received investor funds.

OR

Option 2: The Court hereby amends paragraph 1 of its order to add the following sentence: “The Receivership assets, however, shall exclude Mr. Barton’s residence at 4107 Rock Creek Drive, Dallas, Texas.”

IT IS SO ORDERED this ____ day of October, 2022.

HON. BRANTLEY STARR
UNITED STATES DISTRICT JUDGE