

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF TEXAS

3 CASE NO. 3:22-cv-2118-X

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5 -----x
6 SECURITIES & EXCHANGE COMMISSION,

7 Plaintiffs,

8 v.

9 TIMOTHY BARTON, et al.,

10 Defendants.
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12 -----x

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15 TRANSCRIPT OF THE HEARING
16 BEFORE THE HONORABLE BRANTLEY STARR
17 UNITED STATES DISTRICT JUDGE
18
19

20 Dallas, Texas

21 July 23, 2024

22 10:01 a.m.
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1 - P R O C E E D I N G S -

2 THE COURT SECURITY OFFICER: All rise.

3 THE COURT: Thank you. You can be seated.

4 Okay. We are here in Civil Action No.

5 3:22-CV-2118. That's Securities and Exchange Commission

6 versus Barton, et al.

7 Let's do appearances, first for the SEC, and

8 then for Barton, and then for the Receiver.

9 MR. BERNSTEIN: Your Honor, Keefe Bernstein on

10 behalf of the SEC.

11 THE COURT: Thank you, Mr. Bernstein.

12 And for Barton?

13 MR. EDNEY: Good morning, Your Honor. Michael

14 Edney on behalf of the Defendant, Mr. Barton.

15 THE COURT: Thank you, Mr. Edney.

16 And for the Receiver.

17 MR. WELLS: Good morning, Your Honor. Tim

18 Wells on behalf of the Receiver.

19 THE COURT: Thank you.

20 And, Mr. Thomas, you're here too.

21 MR. THOMAS: Yes, Your Honor.

22 THE COURT: So, the hearing, as we put on the

23 docket, is to consider the sale of properties for the

24 Amerigold Suites and Hall Street.

25 So I'll let -- Mr. Wells, you start off. And I

1 don't want to Groundhog Day y'all. So how about we talk
2 about them. I'll just let you talk about both properties
3 and see if there have been any other offers that meet the
4 statutory requirements since you filed your notice on the
5 docket and talked about the notice you filed in the Dallas
6 Morning News.

7 But, when you talk about those, can you at
8 least talk about the properties individually so we don't
9 fully muddy up the record. I'm trying to torture you all
10 as minimally as possible but still keep a clean record.

11 So, Mr. Wells, go ahead and lay out the case
12 for Amerigold and Hall property, if you would.

13 MR. WELLS: Yes, Judge, thank you.

14 So, as the Court is well aware, the Receiver
15 filed two motions to approve sales docket 500 with the
16 supporting appendix 501 and docket 502, of the supreme
17 appendix 503.

18 The only opposition to the sales is from
19 Mr. Barton, who has filed two objections; one for each of
20 those properties. As the Court noted, we filed a notice of
21 publication. The sales were publicized in the Dallas
22 Morning News on July 1st, 2024. And, before addressing the
23 specifics of each sale, I'm happy to answer any questions
24 the Court has regarding those specific sales. But it
25 sounds like the Court is interested in the notice and if

1 we've received any other offers.

2 THE COURT: That's right, Mr. Wells. I don't
3 have any other questions beyond those.

4 MR. WELLS: Thank you, Judge.

5 So, first I'll just note there was an objection
6 filed whether this Court has jurisdiction. And, so, to
7 create a fulsome record for the likely appeal that will
8 come, I'm happy to walk through the jurisdiction, and I'm
9 sure the Court has jurisdiction to hear this matter. And,
10 so the Fifth Circuit has said that during dependency of an
11 interlocutory appeal, a district court may proceed with
12 matters not involved in the appeal. We have briefed this
13 extensively in our reply on pages 2 through 6.

14 In denying Barton's previously filed motions to
15 stay the Receivership order, the Fifth Circuit has
16 concluded that the administration of Receivership Estate is
17 not a matter involved in that appeal.

18 And, so, moreover, Congress has said that
19 through Federal Rule of Civil Procedure 62 that it has
20 exempted interlocutory appeals of the Receivership orders
21 from an automatic stay that would otherwise arise during an
22 appeal.

23 And, so, Mr. Barton, he has not sought a stay
24 here, and he's trying to use a jurisdictional argument to
25 seek a stay that he has not sought here.

1 And, so, turning specifically to the Court's
2 question about if there have been any other offers for the
3 properties, since filing the notice of publication, we have
4 not received any other offers for the properties. The
5 highest offers we have received are what we briefed in our
6 motions.

7 And, so, then, returning to Mr. Barton's
8 objections, he says that the Court must maintain the status
9 quo while an appeal is pending, and that's just not the
10 case. Mr. Barton has not sought a stay and was previously
11 denied that stay. And, so, if the Court were required to
12 maintain the status quo, that would essentially act as an
13 automatic stay, which the Fifth Circuit has said is not the
14 case.

15 Mr. Barton has also objected that the Court
16 cannot expand the Receiver's authority, but approving these
17 sales does not expand the Receiver's authority. The
18 receivership order already empowers the Receiver to sell
19 property in paragraphs 40 and 41 of that order. This
20 hearing just merely satisfies the statutory requirement of
21 28 USC 2001.

22 And, so these sales are in the best interest of
23 the Receivership. The properties continue to accrue
24 interest at a very high rate. These two properties alone
25 accrue \$43,000 in interest every month. For all the

1 properties in the Receivership, that is \$170,000 a month
2 accruing in interest. Per year, that is approximately
3 \$2 million. And since the start of the Receivership in
4 October of '22, that's over \$3.5 million in value that has
5 evaporated through interest.

6 The Hall Street property accrues interest at
7 9.009 percent, which is approximately \$1,023 per day. And
8 so, understandably, the lenders are pressing for these
9 properties to be sold. They're not receiving any payments,
10 as we've briefed extensively to the Court. The
11 receivership order stays those payments. And, so, they are
12 pressing for the stay to be lifted so that they can get the
13 value, or get their interest that is accruing.

14 Concurrently, the property values have been
15 falling for commercial properties, as evidenced by the drop
16 in sale price for the Amerigold property, that we
17 previously brought to the Court, at a price of
18 \$5.5 million.

19 And now the highest offer we've been able to
20 receive is \$4.8 million. That is a drop in \$700,000 since
21 we initially brought that to the Court. This is due to the
22 rising interest rates and the changing market conditions
23 that just no longer support that previous \$5.5 million
24 price. As we briefed in our motions, the previous buyer
25 decided that the value wasn't there in that property, and

1 walked away from the prior sale.

2 And, so, the estate is -- the estate's cash
3 strapped, and it has not been able to pay taxes for the
4 Hall property, property in Frisco, and another property
5 known as the Ridgeview edition. And, so, approving these
6 sales will provide much needed resources to the
7 receivership to be able to operate.

8 And, so, as the Court noted, we did file a
9 publication, we've received no competing offers.

10 And I can turn to the specifics of each
11 property now.

12 So, turning to Amerigold Suites, as I
13 previously mentioned, the sale price is \$4.8 million. The
14 Receiver conducted three new appraisals for this sale. The
15 average value of those appraisals was \$5,546,667. The
16 lowest appraisal was 4.17 million. And the highest was a
17 ranged appraisal, which was a broker's opinion, a value
18 that was 6.7 million to 7.1 million. But it averaged out
19 because there are the 5 million, \$5.5 million number.

20 And, so, this sale exceeds the statutory
21 requirements of two-thirds value listed in 28 USC 2001.

22 This property accrues interest at \$13,000 a
23 month. And, so, the meter just continually running this
24 property's value continues to erode.

25 There's a principal balance of over

1 \$2.4 million. And, in the time that this property has sat
2 since the Receiver previously brought it to the Court, it
3 has lost significant value, about \$210,000 in extra
4 interest from the initial approval.

5 So, if the property sold today for the
6 \$4.8 million, that would bring it -- that would cover the
7 receivership estate at approximately 1.8 million, which is,
8 as I said before, greatly needed by the receivership estate
9 to operate.

10 As we briefed extensively to this Court, the
11 Amerigold Suites takes considerable management and is a
12 drain on the receivership estate assets. We've replaced
13 multiple AC units for about nearly half the property now.
14 It continues to lose money every month between interest
15 payments and insurance and just the general management
16 operations of it. But for the interest being stayed, the
17 property is not self-sustaining. And, so, it needs a lot
18 of rehabilitation to make it marketable to the broader
19 public.

20 The Receiver is doing everything that he can to
21 keep it in habitable condition for the tenants that live
22 there. But in order to raise rents, or anything, as Mr.
23 Barton suggested, it needs considerable renovations, which
24 is incorporated in the market value of it. The potential
25 buyers have seen the condition of it and realized that it

1 will require a significant capital investment to make it
2 marketable to the broader public.

3 Turning to the Hall Street property, that's the
4 second property the Receiver is briefing to the Court
5 today. It has a sales price of \$6 million. The average
6 appraised value for that property with the three new
7 appraisals that the Receiver conducted for this property is
8 \$5,136,421.

9 This price -- the sales price is higher
10 significantly than the average appraised value and
11 satisfies the statutorily required two-thirds appraised
12 value. This property has a principal balance -- has a note
13 on it with a principal balance of over \$4.6 million. And,
14 as I mentioned earlier, it accrues interest at over nine
15 percent a month due to a variable interest rate on the note
16 on that property. It has -- which equates to over \$30,000
17 per month in interest that is evaporating the value of that
18 property.

19 Due to the high principal balance of this
20 property, if it was sold, the net recovery to the
21 receivership estate would be approximately \$900,000.

22 This property was previously marketed by
23 Mr. Barton, and it's our understanding that the current
24 buyer has contracted with Mr. Barton before to buy this
25 property for a lower price. We understand it may be in the

1 range of about ten percent less than we're currently
2 selling it now.

3 And, so, this sale is about the top of the
4 market, and we are fairly certain that this is the highest
5 price that we could receive for this property. And if this
6 sale is not approved, I'm sure that we could get that
7 appraised again.

8 And, so, the Court has already, in its recent
9 orders, appointed the appraisers for the purpose of
10 providing their appraisals, and it accepts that the
11 appraisal satisfied 28 USC 2001. And, so the Receiver
12 would ask the Court approve each sale and allow each
13 property to be sold free and clear of all liens and
14 transferring any liens to the remaining proceeds.

15 I'm happy to answer any specific questions the
16 Court has.

17 THE COURT: Okay. Thank you, Mr. Wells. I
18 don't have any other further questions now, but I might
19 after I hear from others. So thank you for your layout.

20 Mr. Edney, I know you have objections to the
21 sale of both properties. So, what can you tell me about
22 your objections?

23 MR. EDNEY: Thank you, Your Honor.

24 Your Honor, I do appreciate you hearing us on
25 both properties at the same time. Some of my objections

1 apply to both. So I think it will be efficient. And let
2 me start with one of those overarching objections. I think
3 the record shows here that these proposed sales are going
4 off at a bit of a discount to what we could get otherwise.
5 And that's due to the legal overhang of objections to the
6 Receiver's authority over these properties and the appeals.

7 We saw on page 7 of the omnibus reply brief
8 that the Receiver believes that these sales are not going
9 to close until the pending appeal of Your Honor's most
10 recent receivership order is concluded. That process is
11 going on. The SEC just filed their opposition brief
12 yesterday. And we're in a situation now that if the appeal
13 is successful, this is all kind of irrelevant. If the
14 appeal is unsuccessful, the value proposition that the
15 Receiver is bringing to Your Honor -- and I direct Your
16 Honor to page 7 of the reply brief -- is that while these
17 sales will be more ready to go and will save 60 to 90 days
18 of due diligence that the buyer would have to do under
19 these contracts that can occur now as opposed to after the
20 appeals are resolved.

21 What we're not seeing in the papers, Your
22 Honor, is evidence that the accrued interest -- and I think
23 Mr. Wells meant to say on the TC Hall property that the
24 interest was nine percent per year, I think, not per month.

25 Is that right, Mr. Wells?

1 MR. WELLS: That is correct.

2 MR. EDNEY: So, we're not seeing evidence that
3 the accrued interest is in the 60- to 90-day period. The
4 only benefit of approving these things now is going to
5 exceed the discount that the legal overhang is taking in
6 these situations. And the better course, we're urging the
7 Court, is to delay these proposals on the table, take them
8 back up when the appeal is resolved, which is not going to
9 take forever. I mean, we are in the late innings of that
10 process. Either the SEC is going to win, or we are. And
11 if the SEC does prevail, I think we can have a better
12 process for selling these things. They're not going to
13 close anyways until the appeal is resolved. And we can
14 have the process that I believe Congress intended when it
15 stood up 28 USC Section 2001.

16 This was a process where these sales were to
17 happen in the open to bring in buyers with notice of the
18 terms and the ability to top the offers in the private sale
19 as opposed to a court-conducted auction. And if we do that
20 after the appeal is resolved, it's our view that everybody
21 wins. Either we don't waste the time with this process if
22 the appeals succeed. If the appeals fail, a better
23 marketing process can be conducted bringing better value to
24 the estate, better value that will exceed the interest
25 expense of 60 to 90 days that we're saving here. Because

1 that's -- when it comes right down to it, when we see in
2 the reply brief, that's all the value that is being
3 advanced at this point.

4 So we would urge the Court to adjourn this
5 hearing and to take up these proposed sales after the
6 appeal is resolved. We do this certainly for two reasons.

7 First of all, it's long been our position that
8 real property is not fungible. If the receivership is
9 overturned, this is not a transaction that could be unwound
10 and that we should be holding on here until after the
11 appeal is resolved. Effectively, I think the Receiver is
12 saying that's what's going to happen. The flip side of
13 that coin here is that if the receivership is upheld, we do
14 have an interest in making sure maximum value is obtained
15 for these properties.

16 And with the appeal going on, with the
17 uncertainty over the authority of the Receiver to sell
18 these properties, we don't think that that's what's
19 happening here. And just the better course, as a matter of
20 equity, is to take these matters up when the appeal is
21 resolved in the relatively near future.

22 So that's our position on both properties as a
23 matter of equity.

24 Now, let me say this about the legal overhang.
25 I think you've seen in the papers there is some criticism

1 of our appeals of the -- of the sale orders previously in
2 this case as being without jurisdiction. And I think the
3 word "improper" is thrown around a lot. I obviously
4 disagree with that. I'm not filing improper appeals. I
5 think the big issue in terms of these sales not closing is
6 the primary appeal of the receivership orders. I think
7 buyers are looking for that to be resolved. Title
8 companies are looking for that to be resolved before
9 they're willing to close on these sales.

10 To the extent that the sale appeals are the
11 thing that's holding it up, I do want to remind the Court
12 what the Fifth Circuit has done here. The Fifth Circuit in
13 the *United States versus "a" Manufacturing* in 1976 case
14 made very clear that orders authorizing a Receiver to sell
15 real property are immediately appealable. The Fifth
16 Circuit earlier in proceedings in this case with regard to
17 another appeal of a prior sale order did temporarily hold
18 that it lacked jurisdiction over an appeal for a sale
19 order.

20 We sought re-hearing on that, and it really
21 brought "a" Manufacturing to the Court's attention and
22 noted that that was still good law in this Circuit, and it
23 had not been overturned. And on re-hearing that, opinion
24 was vacated. So this talk about these appeals of sale
25 orders being improper, I don't think that that has -- I

1 don't think that has a lot of basis, at least not under the
2 law of the Fifth Circuit. These were properly taken.

3 But, at the end of the day, the main driver
4 here is the appeal of the receivership order. That is
5 coming up closely on the horizon. And the better course
6 here is to wait until that is resolved.

7 That's the equitable issue.

8 We also believe that there are legal barriers.
9 We've argued to Your Honor in the past that disturbing the
10 status quo of these real properties in a prejudgment
11 receivership should be saved for the most extraordinary
12 circumstances, which I don't believe are laid out here.
13 I'll go into that in a moment.

14 There's also the issue of jurisdiction. Your
15 Honor, we haven't raised that before in this case. We are
16 raising it now. Especially in light of the Fifth Circuit's
17 jurisdictional discussion in the recent Chamber of Commerce
18 case, you know, we believe that -- and I want to be clear
19 about the distinction we're drawing here -- Your Honor does
20 have the authority to enforce his existing receivership
21 order. And the Receiver gets to do many, many, many things
22 without coming back to this Court. And I'm not contesting
23 that. And when we have sought stays in the past, we have
24 sought to shut down many, many of those activities that go
25 beyond the sales of real property. But the one thing that

1 the Receiver can't do without coming back to this Court and
2 getting additional authority is to sell real property.

3 And we believe, Your Honor, that approving
4 these sales would be an augmentation of the receivership
5 order that is currently on appeal. It would be a
6 supplementation of the Receiver's existing authority, not
7 an enforcement of the order but a supplementation of it.
8 And, really, the only court to have considered this
9 question directly, the Middle District of Florida in the *SEC*
10 *versus Kirkland* case, said, look, in that circumstance,
11 given 28 USC 2001 and the need for the Court to come in and
12 say yes to the Receiver doing additional things, that is an
13 augmentation of the order that's under appeal; that is
14 improper under the circumstances. And I think -- and that
15 right now we're without jurisdiction to do.

16 So we are bringing that jurisdictional
17 objection at this point. We think it's right. We think
18 it's pretty limited, frankly. Because Your Honor's
19 receivership order was really quite broad. This is one of
20 the few things that the Receiver can't do without coming
21 back to Your Honor for additional approval.

22 We do think it dovetails with what should
23 happen in this situation, that until the Receiver's
24 authority is dealt with by the appellate courts, and
25 frankly, until Mr. Barton's liability is adjudicated, the

1 better course is to bundle these assets, keep them safe,
2 and have them available for use in any final adjudication
3 of liability. But the jurisdictional issue in this
4 situation happens to dovetail with those equitable
5 arguments and legal arguments about keeping the status quo
6 as it is.

7 Just a couple other things.

8 And if I may for just a second -- sorry, I'm a
9 touch under the weather.

10 THE COURT: It happens.

11 MR. EDNEY: So, with regard to the Amerigold
12 Suites property, one thing I think is striking about the
13 papers here is that we have general assertions about the
14 sustainability in keeping it going as an operating concern
15 but not a lot of detail. We have challenged the Receiver
16 to explain exactly what the occupancy is. We still haven't
17 seen that even in the reply brief. There's no declarations
18 or affidavits from the people who are running the property.

19 But we've also challenged the Receiver to
20 explain, if there is low occupancy, why that is. It's been
21 ascribed to the condition of the property, but we have
22 brought it to Your Honor's attention the sales contract,
23 the prior sales contract, that required the Receiver not to
24 take on new tenants. And I don't think there's been any
25 assertion even today that the effort to bring on additional

1 tenants has resumed in the wake of the cessation of that
2 sales contract.

3 The Amerigold Suites property is unique in
4 terms of the assets that have been put before Your Honor
5 because it isn't raw land, it does have an operating
6 business on it, and it does generate revenue. So, properly
7 managed -- and I think Your Honor needs to demand details
8 from the Receiver about whether it is being managed to
9 create enough revenue to keep it in place, keep it safe
10 until the appeal is resolved and until liability is
11 resolved. You know, absent those facts, I don't think
12 we're in a position to say that the sale today is better
13 than keeping it where it is.

14 And, of course, as I discussed earlier and on
15 the basis of page 7 of the reply brief, we're not even
16 talking about a sale today, we're talking about a sale
17 after the appeal is resolved. That does not seem like the
18 better course under these circumstances.

19 It's also, Your Honor, on the frontiers of Your
20 Honor's tracing analysis. This is a property, you know,
21 this case is about loans from Chinese nationals that have
22 occurred over a limited time in the past. This property
23 was purchased 19 years ago. I understand Your Honor's
24 rulings about the solar panels that were put on the roof
25 and salary expenses that were used to promote the property.

1 But this is kind of on the outer rim of the core of
2 receivership assets, which are actual properties where
3 investor funds were used to purchase them. This is a
4 legacy asset that I think is -- I think the Fifth Circuit
5 is going to be delving into how we split the onion there,
6 it's going to be a big focus. And I think since this is
7 out, you know -- is it Jupiter, is it Neptune, or is it
8 Mercury. We have some Mercury properties, we have some,
9 you know, kind of outer planetary properties. This is a
10 particular situation to kind of hit the pause button and
11 say let's let this property continue to generate revenue,
12 let's get the detail from the Receiver that we need to
13 assess whether it's reaching its full potential to be
14 self-sustaining, and let's address whether it should be
15 sold, you know, after the Fifth Circuit weighs in on
16 whether it's a property that really should be in the
17 receivership state.

18 You know, same thing, too, with the TC Hall
19 property. That property is a -- it's over in the Turtle
20 Creek neighborhood. It is permanent and entitled for hotel
21 development, which I don't think the appraisal's really
22 taken full accounting of. It's right there on Turtle Creek
23 Boulevard, and it is a property that was, you know,
24 purchased and managed by the Defendant's son. So, again,
25 it's an outer-orbiting asset that I think there are going

1 to be serious questions in the Fifth Circuit appeal about.
2 I think the better course there, it is accruing at nine
3 percent interest per year, but the better course there is
4 to hit the pause button on that till the Fifth Circuit
5 decides and, you know, that the 60 or 90 days of
6 interest there, which, you know, I mean, is not -- I know
7 it's not trivial, but what is that? That's three percent
8 of the loan. It's a couple hundred thousand dollars,
9 perhaps. I just don't think it's worth it under the
10 circumstances, not worth it for the receivership estate.

11 So we urge Your Honor to hit the pause button
12 on these requests, carry them until the appeal is resolved,
13 and revisit them then.

14 I'd be happy to answer any of Your Honor's
15 questions. But, in addition to our arguments raised in the
16 papers, that's our presentation today.

17 THE COURT: Thank you, Mr. Edney.

18 Question on the notice that the Receiver filed
19 on alleged interference with the property. What can you
20 tell me from your client's position on that notice?
21 Talking to title companies, talking to buyers that the
22 Receiver was talking to on contracting. What can you tell
23 me that your client has or has not done in that regard?

24 MR. EDNEY: Your Honor, I'd like an opportunity
25 to come back to you on that, if I could. I'm not prepared

1 to speak to that.

2 THE COURT: Well, and I didn't set it for a
3 show cause hearing, so I can't force you to tell me
4 something. But what I do need to say is, with the
5 receivership order, I know it's being appealed. But
6 Section 7, paragraph 32 -- this is Document 417 in this
7 case. Let me make sure you all have notice of it. It
8 says, "The receivership entities and all persons receiving
9 notice of this order" -- that includes everyone in this
10 room now -- "are hereby restrained and enjoined from
11 directly or indirectly taking any action, causing any
12 action to be taken without the express written agreement of
13 the Receiver which would" -- and you drop down to
14 subsection B -- "hinder, obstruct, or otherwise interfere
15 with the Receiver in the performance of his duties."

16 I have no problems with you all talking to a
17 buyer the Receiver is not talking to and coming in with a
18 better offer. And, honestly, that's the purpose of this
19 hearing. I would love for you to walk in with an offer
20 that's ten percent higher. I want that to happen. That's
21 not interference. But if you talk to someone that they're
22 trying to contract with and sow doubt, that is absolutely
23 hindering or interfering with the Receiver's duties.

24 So I'm not setting a show cause hearing now,
25 but I want there to be crystal clarity on this. If you

1 talk to someone new and generate a higher offer, great, pat
2 on the back, attaboy. If you talk to someone who they are
3 talking to and cause that person's number to drop or that
4 person walks away from the negotiating table, that is
5 hindrance, that is interference.

6 MR. EDNEY: Your Honor, I appreciate that. And
7 it's crystal clear in my mind with regard to what the order
8 provides. I do think that the flip side of the coin here
9 is that the Receiver should be transparent with the title
10 companies, too, that these appeals are going on. And I
11 don't know whether that's happening or not. But I'll
12 certainly advise my client to the extent that's happened,
13 that it can't happen again. Now, I don't know that it has.
14 I'm happy to speak with him briefly and come back to Your
15 Honor. But, I appreciate you --

16 THE COURT: I won't require you to speak to him
17 and come back, but I'll just put my understanding here on
18 the table. And that's -- for example, that's also one
19 thing that I wonder about at the hearing, which is why I'm
20 glad everyone's talked about that the closing would only
21 occur afterwards.

22 That does change the financial picture of
23 things, as you've argued, Mr. Edney. But it does also make
24 clear to me a couple of things. One, that there is no
25 deception going on, on the Receiver's part in trying to

1 sell the property for an inflated price that's not
2 factoring in pending litigation. I don't want deception to
3 cause a higher price. I'm not trying to benefit the
4 receivership estate at the expense of unwitting buyers.

5 MR. EDNEY: That's right.

6 THE COURT: The flip side of that is I also
7 know that the price isn't discounted because of the
8 litigation. I know there are arguments that there's
9 litigation, there must be a discount. But, in my view, if
10 there's not a closing until the litigation has concluded
11 over the validity of the receivership's authority, then I
12 know there is not a discount, from an economic standpoint.
13 So it's, perhaps, resulting in less money to the
14 receivership than if they were to deceive somebody. But
15 it's being fair to all parties involved.

16 And, just let me confirm. You don't have an
17 offer on your hands that is higher -- I know ten percent or
18 the statute -- but any higher than the offers that we've
19 been talking about today?

20 MR. EDNEY: No, Your Honor.

21 THE COURT: Thank you, Mr. Edney.

22 MR. EDNEY: Thank you, Your Honor.

23 THE COURT: Mr. Bernstein, let me ask you, is
24 there anything that the SEC wants to add?

25 MR. BERNSTEIN: No, Your Honor .

1 THE COURT: Okay. Let me ask if there is
2 anyone else here who needs to say something.

3 Okay. So, what I need to say is -- then I'll
4 make oral findings here -- that I think the requirements of
5 the statute are met in terms of the three appraisals, the
6 average, and the amounts under the contract meeting the
7 statutory threshold of two-thirds or higher at the average
8 appraised value. Already said that in my prior orders both
9 on Amerigold and Hall, but I'll reconfirm that today.

10 The question for today's hearing is two-fold.
11 One, are there any other competing offers that are ten
12 percent higher than the ones that we've talked about
13 previously? And, two, are the sales in the best interest
14 of the receivership estate? I think that we don't have any
15 evidence of a higher sale that could come in, much less ten
16 percent higher. The question on, is it in the best
17 interest of the receivership estate: I believe that it is.

18 So I get Mr. Edney's point that these sales
19 couldn't close until after appeals conclude on the
20 authority of the receivership .

21 But I do believe that the kind of receivership
22 we have here is unique, and that cuts in both ways. It's
23 unique because it is largely a real estate-based deal. It
24 would be easier to conclude that we should pause this and
25 reconvene after appeals are exhausted if it's raw land.

1 But we do have properties that have incredible upkeep when
2 it comes to Amerigold and interest that keeps accruing.
3 Albeit, we don't have to pay it in the meantime because of
4 my stay in the receivership. But I do think the net
5 balance means that agreeing to a contract for sale on the
6 sooner side is better. So I think it benefits the
7 receivership estate both for Amerigold and Hall Street.

8 So I'll go ahead and put on the docket later on
9 this week an approval of those, knowing that there wouldn't
10 be a closing until after appeals are exhausted.

11 Okay. That concludes this hearing. Thank you
12 for being here and for the good lawyering. And we'll see
13 you all the next time we need a hearing in this case.

14 (Proceedings concluded at 10:37 a.m.)

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CERTIFICATION

I, Rachel C. Erickson, United States Court Reporter for the United States District Court in and for the Northern District of Texas, Dallas Division, hereby certify that the above and foregoing contains a true and correct transcript of the proceedings in the above entitled and numbered cause.

WITNESS MY HAND on this 28th day of August, 2024.

/s/ Rachel C. Erickson
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