

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
SOUTHERN DIVISION

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

**RECEIVER’S SUPPLEMENTAL BRIEF REGARDING REDRESS FOLLOWING
RULING IN *AMG CAPITAL MANAGEMENT, LLC V. FTC***

The Receiver, Robb Evans & Associates LLC (“Receiver”) submits this supplemental brief regarding whether the Court may continue to entertain and rule upon the proposed FTC’s Motion in Support of the Redress Plan and Executive Summary Thereof (Doc. 1117) and [Proposed] Order Governing Redress (Doc. 1117-1) attached thereto (“Redress Plan”).

I. NO RECEIVERSHIP ASSETS ARE AFFECTED BY THE RULING IN *AMG*

The Supreme Court’s recent ruling in *AMG Capital Management, LLC v. Federal Trade Commission*, No. 19-508 (Apr. 22, 2021) should have no effect on this Court’s ability to rule upon the Redress Plan or the Court’s ability to grant the FTC’s motion in support of the Redress Plan. Earlier this week, the Receiver submitted the Declaration of Brick Kane in Support of Opposition to Motion by Defendant Luke Chadwick for Release of Funds from Receivership Estate for Legal Fees (Doc. 1212-1) (“Kane Declaration”). The Kane Declaration demonstrates that none of the cash assets of the receivership estate originated from accounts, funds or other assets directly owned or held by Andris Pukke (“Pukke”), Peter Baker (“Baker”) or Luke Chadwick (“Chadwick”). (Kane Declaration, ¶¶ 3-15.) Kane further testified that none of the non-cash assets of the receivership estate are held in the name of or directly owned by Pukke,

Baker or Chadwick. (Kane Declaration, ¶ 16.) Therefore, the assets of the receivership estate are unaffected by the appeals of the Amended Final Order for Permanent Injunction and Monetary Judgment Against Defendants Andris Pukke, Peter Baker and Luke Chadwick (Doc. 1194).

Additionally, Chadwick has admitted that he has no direct ownership interest in the five entities comprising the development known as Kanantik which is the subject of the Final Order Concerning Kanantik (Doc. 1193) and is part of the Redress Plan. Therefore, he has no direct rights in any of the assets which may be held by those entities. The five principal entities comprising Kanantik, as set out in the Final Order Concerning Kanantik, are Mango Springs Development Ltd. (“Mango Springs Belize”), G&R Development Company of Belize Ltd. (“G&R”), Palmaya Development, Ltd. (“Palmaya”), Mango Springs Development, LLC (Nevada) (“Mango Springs Nevada”) and Kanantik International Ltd. (Kanantik International). In his recent Motion for Release of Funds for Legal Fees (Doc. 1199) (“Chadwick Motion”), Chadwick asserts an ownership interest in various portions of the Kanantik development which has been placed into receivership. However, at page 7 of the Chadwick Motion, he admits that his ownership interest in the primary Kanantik entity, Mango Springs Belize, as well as his ownership interest in Palmaya and Kanantik International, are only indirect interests through his ownership of Exotic Investor LLC (“Exotic Investor”). Exotic Investor is a Receivership Entity. Therefore, he does not directly own any interest in those three entities. Further, Chadwick’s interests in G&R and Mango Springs are also indirect, obtained through his indirect interest in Palmaya, which in turn is obtained through his interest in Exotic Investor. As a result, all of Chadwick’s interests in the Kanantik entities are indirect and ultimately held through his interest in Exotic Investor, which is a Receivership Entity.

All of this means that the receivership estate’s assets derive entirely from assets that were held by either Receivership Entities that are subject to the Final Order for Permanent Injunction

and Monetary Judgment Against Defaulting Defendants etc. (Doc. 1112) (“Default Judgment”) or that were held by Defendants, Relief Defendants or third parties that either stipulated to judgments or entered into Court-approved settlements with the Receiver. The FTC has previously explained why the Default Judgment is fully enforceable and unaffected by the *AMG* ruling in its opposition to the Chadwick Motion. (Doc. 1213 at pp. 5-6.) Because all of the receivership estate’s assets derive entirely from assets that were held by Receivership Entities or that were held by Defendants, Relief Defendants or third parties that either stipulated to judgments or entered into settlements with the Receiver, the *AMG* ruling does not affect the Court’s ability to provide for consumer redress from these assets even as Pukke, Baker and Chadwick challenge the judgment which was entered against them personally.

II. THE REDRESS PLAN ENABLES THE RECEIVER TO COMMENCE IMPORTANT CLAIMS WORK LONG BEFORE DISTRIBUTIONS CAN BE MADE

There is also a practical reason why the Court should address the Redress Plan without delay. The Redress Plan enables the Receiver to begin the process of evaluating and quantifying the potential claims of lot owners in Sanctuary Belize and Kanantik. During the claims process, the Receiver will be able to resolve any factual disputes surrounding the amounts paid by lot owners for their original acquisition of lots. Also during the claims process, the Receiver will be able to address and potentially resolve competing claims to lots between lot owners which arose in light of the improper business practices utilized by the Defendants. The claims process alone will take up to five months to complete after entry of an order approving the Redress Plan (Section III.A). Initial distributions under the Redress Plan cannot commence at least until the completion of the claims process. The Receiver will not provide notice to Sanctuary Belize lot owners of their estimated initial distributions for up to five months following entry of an order

approving the Redress Plan (Section III.B). The Receiver will not provide notice to Kanantik lot owners of their estimated initial distributions for up to nine months following entry of an order approving the Redress Plan (Section III.H). It is highly likely that initial distributions under the Redress Plan will not commence for **at least one year** following the entry of an order approving the Redress Plan.

Since no distributions will be made in the near future, there is no practical reason for the Court to withhold approval of the Redress Plan. Prompt entry of an order approving the Redress Plan enables the Receiver to commence important work determining the amount of allowed claims and addressing and potentially resolving competing lot claims between consumers.

Respectfully submitted,

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By: /s/ Gary Owen Caris

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