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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**EMILIO FRANCISCO, et al.,**

**Defendants.**

**Case No.: SACV 16-02257-CJC(DFMx)**

**ORDER APPROVING:**

**(1) SETTLEMENT AGREEMENT  
WITH COMMONWEALTH  
HOLDINGS, INC.; AND**

**(2) TRANSFER OF SUN CITY  
PROPERTY**

Before the Court is the motion of Thomas A. Seaman (“Receiver”) for an order approving: (1) the Settlement Agreement and Mutual Release (“Settlement Agreement”), dated October 3, 2018, between the Receiver and Commonwealth Holdings Company, Inc. (“Commonwealth”), and (2) the proposed transfer of the real property located at and

1 commonly known as that 5.3 acre parcel of land situated in Hillsborough County, Florida,  
2 recorded in Official Records as Book 23750, Page 1736 (“Sun City Property”) to  
3 Commonwealth, pursuant to the Settlement Agreement. (Dkt. 307.) In considering the  
4 motion, the Court has reviewed the accompanying memorandum of points and  
5 authorities, the Receiver’s declaration, and the Settlement Agreement. No objections  
6 have been filed.

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8       Upon his appointment in January 2017, the Receiver took control of the  
9 Receivership Entities,<sup>1</sup> including Meridian at Sun City, LLC, f/k/a Summerplace at Sun  
10 City, LLC (“Sun City”). (Dkt. 307-1 [Declaration of Thomas A. Seaman] ¶ 2.) In 2015  
11 and 2016, Commonwealth entered into a series of loan transactions with Sun City. (*Id.* ¶  
12 5.) Commonwealth contends that Sun City is in default under the loan documents and  
13 that the entire loan is currently due. (*Id.* ¶ 6.) The Receiver has spent over a year  
14 marketing the Sun City Property, but he has not received any offers to purchase the  
15 property, much less any offers in excess of the amount owed to Commonwealth. (*Id.* ¶  
16 7.) In the Receiver’s business judgment, an auction of the Sun City Property would be  
17 unlikely to produce any net revenue for the Receivership Entities. (*Id.* ¶ 8.) Under the  
18 proposed Settlement Agreement, the Receiver will transfer the Sun City Property to  
19 Commonwealth in exchange for \$100,000 and release and waiver of the claims arising  
20 out of the loan. (*Id.* ¶ 9.)

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<sup>1</sup> The entities included in the receivership are PDC Capital Group, LLC; Caffe Primo International, Inc.; SAL Senior Living, LP; SAL Carmichael, LP; SAL Citrus Heights, LP; SAL Kern Canyon, LP; SAL Phoenix, LP; SAL Westgate, LP; Summerplace at Sarasota, LP; Summerplace at Clearwater, LP; Summerplace at Correll Palms, LP; TRC Tucson, LP; Clear Currents West, LP; Caffe Primo Management, LP; Caffe Primo Management 102, LP; Caffe Primo Management 103, LP; Caffe Primo Management 104, LP; Caffe Primo Management 105, LP; Caffe Primo Management 106, LP; Caffe Primo Management 107, LP; Caffe Primo Management 108, LP (collectively, “Named Entities”); and their subsidiaries and affiliates, including, but not limited to: Summerplace Management, LLC; PDC Partners Management, Inc.; FDC Partners Management, Inc.; KPF Capital, LLC; FDC Capital Partners, LLC; Summerplace at Sun City, LLC; Summerplace at Sun City, LP; and Meridian at Sun City, LLC.

1 The Court finds that the Receiver has the sole authority to act for and as the sole  
2 member of Sun City and has the authority to settle with Commonwealth and to sell and  
3 transfer the Sun City Property to Commonwealth. The Court also finds that the Receiver  
4 provided adequate notice to all interested parties, including, but not limited to, all those  
5 persons with an interest in the Sun City Property.

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7 Having considered the Motion, the Receiver’s declaration, the Settlement  
8 Agreement, the responses to the Motion, and good cause appearing, the Court orders as  
9 follows:

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11 1. The Receiver’s Motion is **GRANTED**.<sup>2</sup>

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13 2. The Receiver is authorized to settle with Commonwealth pursuant to the  
14 terms of the Settlement Agreement.

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16 3. The Receiver’s proposed sale of the Sun City Property, as described in the  
17 Motion and Settlement Agreement, is approved and authorized. (*See* Dkt. 307 [Motion];  
18 Dkt. 307-1 Ex. A [Settlement Agreement].) Specifically, the Court authorizes the  
19 transfer of the Sun City Property to Commonwealth, pursuant to the terms of the  
20 Settlement Agreement.

21  
22 4. In accordance with the terms of the Settlement Agreement and without  
23 limiting its terms, Commonwealth shall purchase the Sun City Property on an “as-is,  
24 where-is” basis, without any representations or warranties whatsoever by the Receiver,  
25 his agents and/or attorneys including, without limitation, any representations or  
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27  
28 <sup>2</sup> Having read and considered the papers presented by the parties, the Court finds this matter appropriate  
for disposition without a hearing. *See* Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing set  
for November 19, 2018, at 1:30 p.m. is hereby vacated and off calendar.

1 warranties as to the condition of the Sun City Property, except as expressly set forth in  
2 the Settlement Agreement. Commonwealth shall be deemed to be solely responsible for  
3 its own due diligence, including, but not limited to, inspection of the condition of and title  
4 to the Sun City Property, and shall be deemed not to have relied upon any representation  
5 or warranty of the Receiver.

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7 5. In the performance of his obligations pursuant to this Order, the Receiver's  
8 liability in connection with the Settlement Agreement and the sale of the Sun City  
9 Property shall be limited to the assets of the receivership estate established in the above-  
10 entitled action. Neither the Receiver nor his agents and/or attorneys shall have any  
11 personal liability for claims arising out of or relating to the performance of any actions  
12 necessary to complete the sale as provided herein.

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14 6. Provided he obtains the written consent of Commonwealth, the Receiver is  
15 authorized to amend or otherwise modify the terms of the Settlement Agreement and any  
16 other agreements or instruments reasonably necessary to effectuate the sale of the Sun  
17 City Property as provided herein, in the event the Receiver determines, in his sole  
18 discretion and reasonable business judgment, that such amendment or modification is  
19 reasonable and necessary, will benefit the receivership estate, avoid the imposition of  
20 liability upon the receivership estate, or is required pursuant to the terms of the  
21 Settlement Agreement or any other amendment or modification thereto, provided that  
22 such amendment or modification does not change the material terms of the contract.

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24 7. The Receiver is hereby authorized to take all actions and execute all  
25 documents necessary to consummate and otherwise effectuate the transfer of the Sun City  
26 Property to Commonwealth. Specifically, the Receiver is hereby authorized to execute  
27 and acknowledge a Receiver's Deed conveying title to the Sun City Property to  
28 Commonwealth ("Receiver's Deed"), substantially in the form of Exhibit B to Docket

1 No. 307-1, to effectuate the conveyance and cause the Receiver's Deed to be delivered to  
2 Commonwealth on or about the 31<sup>st</sup> day following the date of this Order.

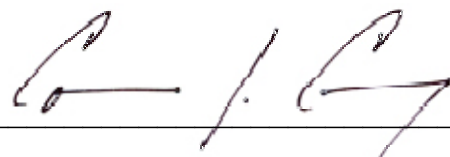
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4 8. This Court retains jurisdiction over any dispute involving the Receiver in  
5 connection with the Settlement Agreement or the sale of the Sun City Property, pursuant  
6 to this order.

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8 9. A certified copy of this order may be recorded concurrently with the  
9 Receiver's Deed or at any time thereafter, provided, however, that failure to record this  
10 order shall not affect the enforceability of this order, the enforceability and viability of  
11 the Settlement Agreement, or the validity of the Receiver's Deed.

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13 10. Any licensed title insurer may rely on this order as authorizing the Receiver  
14 to transfer title to the Sun City Property.

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16 **IT IS SO ORDERED.**

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18 DATED: November 5, 2018

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20 CORMAC J. CARNEY

21 UNITED STATES DISTRICT JUDGE