

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
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In Re:

PALM HEALTHCARE COMPANY, INC.,

Case No. 19-19156-EPK
Chapter 11

Debtor.

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JOINTLY ADMINISTERED

Palm Partners, LLC

Case No. 19-19161-EPK
Chapter 11

Debtor

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Interloc Properties LLC

Case No. 19-19163-EPK
Chapter 11

Debtor

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Miami Real Estate Trust, LLC

Case No. 19-19164-EPK
Chapter 11

Debtor

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**EMERGENCY MOTION OF DEBTOR INTERLOC PROPERTIES LLC
FOR ENTRY OF ORDER APPROVING THE SALE OF REAL PROPERTY
LOCATED AT 705 WEST LINTON BLVD DELRAY BEACH, FLORIDA 33444
UNITS A-101, A 102, A-103, A-104, A-201, A-202, A-203, A-204, A-205, B-101,
B-102, B-103, B-104, B-201, B-202, B-203, B-204, C-101, C-102, C-103,
C-104, C-105, C-201, C-202, C-203, C-204, C-205, D-101, D-102, D-103,
D 104, D-105, D-201, D-202, D-203. D-204, D-205 AND A RECREATION
UNIT FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES**

Basis for Emergency Relief

The contract for sale and purchase that is the basis for this motion requires a closing by November 12, 2019. Therefore, the Debtor requests that this matter be heard on an expedited basis.

Debtor, Interloc Properties LLC (“**Interloc**”), the Chapter 11 debtor and debtor-in-possession (the “**Debtor**”), pursuant to §§ 105 and 363 (b), (f), and (m), of title 11, United States Code (the “**Bankruptcy Code**”), Rules 2002 and 6004(f) of the Federal Rules of Bankruptcy Procedure and Local Rules 2002-1 and 6004-1, by and through undersigned counsel, files this motion to approve the sale of real property located at 705 West Linton Blvd Delray Beach, FL 33444 (the “**Property**”),¹, free and clear of liens, claims, encumbrances, and interests, and in support thereof states as follows:

BACKGROUND

A. The Chapter 11 Filing

1. On July 11, 2019, the Debtor filed a voluntary petition in this Court for relief under chapter 11 of the Bankruptcy Code. Since that time, the Debtor has operated as debtor-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

2. As of the date hereof, no creditors’ committee has been appointed in these cases. In addition, no trustee or examiner has been appointed.

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§157(b) and 1334. Venue is proper pursuant to 28 U.S.C. §§1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A).

4. The statutory predicates for the relief requested herein are §§105, 1107 and 1108 of the Bankruptcy Code.

¹ The Property is more particularly described on the Commercial Contract attached hereto.

B. Background and Business Operations

5. Interloc is a real estate rental and maintenance company and operates out of 1177 George Bush, Suite 400 Delray Beach, FL 33483.

RELIEF REQUESTED AND LEGAL BASIS

6. Interloc has entered into a Commercial Contract for the sale of the Property to KMG Holdings, LLC for \$7,000,000 (the “**Contract**”). A \$50,000 deposit has been paid and the Contract is due to close on November 12, 2019. A copy of the Contract is attached hereto as Exhibit A. The Property was scheduled at \$7,900,000 and the Property was purchased in June 9, 1998 for \$1,600,000.00. This is an arms’ length transaction. The Contract provides for a 1% broker’s commission to be paid to Delray One Realty, the seller’s broker.

7. The Debtor seeks approval and authorization from this Court to proceed with the sale described in the Contract “free and clear” of any liens, claims, interests, encumbrances, with any such liens, claims and encumbrances to attach to the proceeds of sale. The Debtor requests approval to pay all necessary and customary closing costs in connection with the sales and to pay the broker’s commissions described herein. The broker is an unrelated third party.

8. The Debtor is one of several parties to an Amended and Restated Credit Agreement dated July 3, 2014, as amended (the “**Loan Agreement**”) pursuant to which the Debtor owes certain amounts to participating lenders Fifth Third Bank, City National Bank, and Cadence Bank, which indebtedness is secured by a first mortgage on, among other things, the Property. Fifth Third Bank is the Administrative Agent pursuant to the Loan

Agreement. The Debtor requests authorization to pay the net sales proceeds from the sale to Fifth Third Bank, as Administrative Agent. The current debt due under the Loan Agreement is approximately \$17,000,000 and the net sales proceeds paid to Fifth Third Bank, as Administrative Agent, from this sale significantly reduces the Debtor's debt obligations. The Debtor estimates that the value of the remaining collateral for the debt to Fifth Third Bank exceeds the amount due.

9. This Court has statutory authority to authorize the sale of properties free and clear of liens, claims, and encumbrances pursuant to § 363(f) of the Bankruptcy Code. The Debtors may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if--

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 365(f)(5); *In re Bryan*, 2013 WL4716194, *1 (Bankr. M.D.Ala. 2013) (“Pursuant to 11 U.S.C. § 363(f) the trustee may sell property of the estate ‘free and clear of any interest in such property of an entity other than the estate,’ provided any one of the five disjunctive conditions are satisfied...” (emphasis added).

10. Section 363(b)(1) of the Bankruptcy Code authorizes a debtor in possession to “use, sell, or lease, other than in the ordinary course of business, property of

the estate” after notice and a hearing. 11 U.S.C. §§363(b)(1), 704(a)(1). The standard applicable to a motion under § 363(b)(1) of the Bankruptcy Code is whether the proposed sale serves a sound business purpose. *In re BDK Health Management*, 1998 WL 34188241, *5 (Bankr. M.D.Fla. 1998). Courts have held that the business judgment standard is satisfied where: (1) [there is no] improper or bad faith motive, (2) price is fair and the negotiations or bidding occurred at arm's length, (3) adequate procedure, including proper exposure to the market and accurate and reasonable notice to all parties in interest. *In re Gulf States Steel Inc. of Alabama*, 285 B.R. 497, 514 (Bankr. N.D.Ala. 2002). In this Case each of the factors are met.

11. Subject to the terms and conditions of the set forth in this motion, the Debtor in the sound exercise of its business judgment has concluded that consummation of the sale of the Property to the proposed buyer will best maximize the value of the estate for the benefit of creditors.

12. The Debtor respectfully asserts that ample business justification exists for the sale.

GOOD FAITH PURCHASER

13. The proposed buyer and the Debtor have negotiated at arm's length and the transaction contemplated in this motion is in good faith. The Debtor requests that the order granting the motion and approving the sale find that the proposed buyer is a good-faith purchaser entitled to the protections of 11 U.S.C. § 363(m). The Debtor further requests that, after the hearing on this motion that this Court enter the order granting the motion

authorizing and approving the proposed sale and authorizing the Debtor's execution of and entry into any documents necessary to consummate the proposed sale.

NOTICE

14. The Debtor submits that notice to interested parties, creditors, and any potential purchasers satisfies the requirements of the Bankruptcy Code, pursuant to Fed. R. Bankr. P. 2002, 6004, 6006, and 9014 and any and all Court orders establishing notice or motion procedures.

15. As the Contract requires a closing on November 12, 2019, the Debtor requests that the stay imposed by Bankruptcy Rule 6004(h) be waived.

WHEREFORE, the Debtor respectfully requests that this Honorable Court enter an order: (i) granting this motion; (ii) authorizing and approving the sale of the Property pursuant to the Contract, outside the ordinary course of business, free and clear of all liens, claims, encumbrances, and interests, with liens, claims and encumbrances to attach to the proceeds, (iii) finding that the proposed buyer is a good-faith purchaser entitled to the protections of § 363(m) of the Bankruptcy Code; (iv) authorizing the Debtor to execute any and all documents necessary to facilitate the closing of the proposed sale, (v) approving the payment of the broker's commission pursuant to the Contract and the payment of all other necessary and customary closing costs, including the payment of the net sales proceeds to Fifth Third Bank; and (vi) for such other and further relief as is just and proper.

Respectfully submitted this 24th day of October 2019.

FURR AND COHEN, P.A.
Attorneys for Debtor
2255 Glades Road, Suite 301E
Boca Raton, FL 33431
(561) 395-0500/(561)338-7532-fax

By /s/Alvin S. Goldstein
Alvin S. Goldstein
Florida Bar No. 993621
E-mail: agoldstein@furrcohen.com