UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

IN RE:

SIXTY SIXTY CONDOMINIUM ASSOCIATION, INC.

CASE NO.: 16-26187-RAM
Chapter 11

Debtor.
_____/

SCHECHER GROUP, INC.'S (I) OBJECTON TO DEBTOR'S MOTION FOR ENTRY OF ORDER AUTHORIZING SALE OF DEBTOR'S REAL PROPERTY LOCATED AT 6060 INDIAN CREEK DRIVE, MIAMI, FL 33140 TO KINGSFISHER ISLAND, INC. AND PAYMENT OF COSTS ASSOCIATED THEREWITH [D.E. #432] AND (II) MOTION FOR AUTHORITY AND OPTION TO CREDIT BID UNDER 11 U.S.C. §363(k)

SCHECHER GROUP, INC. ("Schecher Group"), by and through counsel, and pursuant to 11 U.S.C. §§ 363(b), 363(f) & 363(k), Rules 2002(a)(2), 2002(c)(1) and 6004, Fed. R. Bankr. P., and the Court's Order Granting Motion to Approve Bid Process, Setting Deadline For Debtor To File Sale Motion and Setting Hearing [D.E. #427], files the Schecher Group, Inc.'s (I) Objection To Debtor's Motion For Entry Of Order Authorizing Sale Of Debtor's Real Property Located At 6060 Indian Creek Drive, Miami, Fl 33140 To Kingsfisher Island, Inc. And Payment Of Costs Associated Therewith [D.E. #432] (the "Objection") And (II) Motion For Authority And Option To Credit Bid Under 11 U.S.C. §363(k) [D.E. #334] ("Motion to Credit Bid") and states, as follows:

I. PROCEDURAL BACKGROUND.

1. For purposes of this Objection, and by way of brief procedural history in this Bankruptcy Case, the Schecher Group cites to certain portions of the court docket below, but incorporates by reference all motions, objections, orders and court papers previously filed by the Debtor relating to the proposed Section 363 sale of the Commercial Units and Residential Units. In addition, references to the record in the SOS Bankruptcy Case are instructive in this matter and lend further support to the Objection.[1]

[1] Unless specified otherwise, all capitalized terms as used herein shall have the same meaning as set forth in the Sale Motion and SOS Motion to Dismiss, as referenced below.

EXHIBIT CR-139

i. The Debtor's Bankruptcy Case and New Sale Motion.

2. On December 5, 2016 (the "Petition Date"), the Sixty Sixty Condominium Association, Inc. (the "Debtor" or "Association") filed a voluntary petition for relief under Chapter 11 (the "Petition") of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Case") [D.E. #1].

3. On April 7, 2017, the Debtor filed the Debtor's *Expedited* Motion For Entry Of An Order: (I) Approving Jason Welt And Trustee Realty, Inc. As Debtor's Real Estate Professional; (II) Approving Proposed Bidding Procedures; (III) Approving Form And Notice Thereof; And (IV) Scheduling Hearing To Consider Approval Of "Highest And Best" Bid [D.E. #174], whereby KFI submitted a Letter of Intent (LOI) to purchase the Commercial Units and Residential Units at the 6060 Building subject to better and higher offers.

4. On April 7, 2017, Thomas A. Messana, Esq. and Messana, P.A. (collectively "the Messana Law Firm"), as counsel for the Debtor, filed a Notice of Filing Updated Declaration of Thomas M. Messana, Esq., Managing Shareholder of Attorney For Debtor-In-Possession, Messana, P.A. (the "Updated Messana Declaration")[D.E. #176]. In the Updated Messana Declaration, specifically, in ¶3(B)(iii) thereof, the Messana Law Firm disclosed that it "previously represented and presently certain entities affiliated with KFI" in which Todd Mikles ("Mikles"), one of KFI's principals, "has some authority or control". Given recent events, however, the Updated Messana Declaration appears to be inadequate.

5. Also, on April 7, 2017, a Notice of Appearance and Request for Service of Papers was filed by counsel for KFI [D.E. #172] and, subsequently, on June 19, 2017, an Order Admitting Adam T. Kent Pro Hac Vice [D.E. #176] was entered by the Court admitting Adam T. Kent ("Attorney Kent") as counsel for KFI in the Bankruptcy Case and Shared Cost Adversary.

6. On April 12, 2017, the Schecher Group filed its Response and Objection by Secured Creditor, Schecher Group, Inc. to Debtor's *Expedited* Motion For Entry Of An Order: (I) Approving Jason Welt And Trustee Realty, Inc. As Debtor's Real Estate Professional; (II) Approving Proposed Bidding Procedures; (III) Approving Form And Notice Thereof; And (IV) Scheduling Hearing To Consider Approval Of "Highest And Best" Bid [D.E. #200].

7. On May 31, 2017, the Schecher Group filed its Motion And Application By Schecher Group, Inc. For (I) Allowance And Compelling Payment Of Administrative Expense Claim Pursuant To 11 U.S.C. §§ 503(a) & (b)(1)(A) And/Or, Alternatively (II) Relief From The

Automatic Stay Pursuant To 11 U.S.C. §362(d) (the "Utility Expense Motion") [D.E. #252].

8. On June 23, 2017, the Court entered its Order Granting Application For Administrative Expense And Granting Limited Stay Relief (the "Utility Expense Order")[D.E. #284] which provides, in pertinent part, as follows:

> "2. The Schecher Group is granted an allowed administrative expense in the amount of $5,535.34, representing the Debtor's allocable share of $93,977.29 in postpetition utility charges paid by the Schecher Group.

To date, the RUOs have not complied with the Utility Expense Order by paying their allocable share of $93,977.29 (the "Allocable Share") of undisputed post-petition utilities ("Utilities") pursuant to the Declaration. The Schecher Group continues to demand, as in the past, that the RUOs comply with the Utility Expense Order by paying their respective Shared Costs for Utilities as a condition precedent to approving the Sale Motion.

9. On June 23, 2017, the Court entered its Order Reserving Ruling on Right of First Refusal (the "ROFR Order")[D.E. #285], and on August 7, 2017, entered its Order Interpreting Right of First Refusal (the "Order Interpreting ROFR") [D.E. #349]. In the ROFR Order and Order Interpreting ROFR, the Bankruptcy Court determined that the Schecher Group had the right and must exercise its "right of first refusal" (the "ROFR") with respect to all Residential Units offered for sale in connection with a Court approved contract.

10. On August 7, 2017, in the Shared Cost Adversary, the Court entered its Order Referring Proceeding to Judge Hyman to Conduct a Judicial Settlement Conference (the "Settlement Conference Order")[Adv. D.E. #44] pursuant to which the Schecher Group, Debtor and MRC, the former court approved buyer of the Units, conducted a Judicial Settlement Conference (the "Settlement Conference") on September 15, 2017.

11. On October 17, 2017, the Schecher Group filed its Motion By Secured Creditor, Schecher Group, Inc. For Entry Of Order (I) Enforcing And Compelling Compliance With Order Granting Application For Administrative Expense And Granting Limited Stay Relief [D.E. #284]; (II) Granting Final Judgment Against Residential Unit Owners For Failure To Comply With Utility Expense Order And For Sanctions; And (III) For Allowance And Payment By The Debtor and Residential Unit Owners of Additional Administrative Expenses to the Schecher Group For Shared Costs Related To Utilities For The 6060 Building (the "Motion to

Compel")[D.E.# 389] and Notice of Filing Amended Exhibit "A" to the Motion to Compel [D.E. #392].

12. On October 13, 2017, the Debtor filed its Motion Requesting Renewed Order Setting Trial Date and Deadlines (the "Motion Requesting Trial Order") [D.E. #98], requesting the Court to reset the trial and related pretrial deadlines in the Shard Cost Adversary. For the reasons stated in this Objection, the Schecher Group opposes the relief requested by the Debtor, unless and until such time, as the Debtor can satisfy its burden that the Commercial Units and Residential Units will be sold to a good faith buyer and, further, that the Trials in the Foreclosures have concluded in State Court.

13. On September 25, 2017, the Debtor filed its *Second Amended Disclosure Statement in Support of First Amended Plan of Reorganization of Sixty Sixty Condominium Association, Inc.* [D.E. #381] and *Second Amended Plan of Reorganization of Sixty Sixty Condominium Association, Inc*. (the "Second Disclosure Statement and Plan") [D.E. #380].

14. Thereafter, on October 24, 2017, the Schecher Group filed its Notice of Filing By Schecher Group, Inc. of Buyer's Termination of Contract In Connection With (I) Order Interpreting Right Of First Refusal (the "ROFR Order") [D.E. #349] and (II) Final Order Approving Bulk Sale Contract Including 363 Sale Of Debtor's Property Free And Clear Of Claims, Liens And Interests And Awarding Broker Real Estate Commissions (the "Final Order")[D.E. #366](the "Notice of Termination")[2], attaching the Notice of Termination of the Amended MRC Contract by MRC.

15. On October 25, 2017, the Schecher Group filed its (i) Objection to Second Amended Disclosure Statement in Support of Second Amended Plan of Reorganization of Sixty Sixty Condominium Association, Inc. (the "2nd Disclosure Objection")[D.E. #395] and (ii) Renewed Motion for Dismissal of Chapter 11 Case Pursuant to 11 U.S.C. §1112(b) – Expedited Relief Requested (the "Renewed Motion to Dismiss Case") [D.E. #396].

16. On October 25, 2017, another large secured creditor, Florida Building & Supply, Inc. ("FB&S") filed its Objection to Debtor's Second Amended Disclosure Statement in Support of Second Amended Plan of Reorganization of Sixty Sixty Condominium Association, Inc. (the "FB&S Objection") [D.E. #394].

[2] Notwithstanding any issue with the amounts due for the Schecher Liens, the Amended MRC Contract was terminated after MRC conducted a satisfactory inspection of the 6060 Building, including all of the Shared Components, with the full cooperation of the Schecher Group just weeks earlier.

17. On October 26, 2017, the Debtor filed its Emergency Motion for Entry of Order Approving Bid Process (the "Emergency Motion for Order Approving Bid Process") [D.E. #397] and, on October 27, 2017, filed the Debtor's Motion to Continue Confirmation Hearing (the "Continuance Motion") [D.E. #401].

18. On October 27, 2017, counsel for the Debtor filed their Summary of First Interim Fee Application for Allowance And Payment of Compensation and Reimbursement of Expenses For Messana, P.A., As Attorney's For Debtor and First Interim Application for Allowance and Payment of Compensation and Reimbursement of Expenses for Messana, P.A., As Attorneys for Debtor (the "Messana Fee Application")[D.E. #402] seeking interim gross fees in the amount of $264,185.36 and expenses of $15,062.86 for a gross amount of $264,185.36 for services rendered between December 6, 2016 and June 30, 2017 ("Application Period"). To be sure, the Schecher Group is filing a separation objection to the Messana Fee Application.

19. On October 30, 2017, the Schecher Group filed its Secured Creditor, Schecher Group, Inc.'s (I) Amended Objection To Second Amended Disclosure Statement In Support Of Second Amended Plan Of Reorganization Of Sixty Sixty Condominium Association, Inc. [D.E. #381]; (II) Response And Objection To Emergency Motion For Entry Of Order Approving Bid Process [D.E. #397]; And (III) Response And Objection To Motion To Continue Confirmation Hearing [D.E. #401] (the "Amended Objection")[D.E. #415].

20. Critically, on November 1, 2017 at 10:00 a.m. (the "November 1st Hearings"), the Court held multiple hearings on the Second Disclosure Statement, 2nd Disclosure Objection, Renewed Motion to Dismiss Case, Emergency Motion for Order Approving Bid Process, Continuance Motion, Motion to Compel, FB&S Objection and Amended Objection, and considered other matters in connection with the Shared Cost Adversary.

21. After much debate, and over the strenuous objections of the Schecher Group, the Court concluded the November 1st Hearings by reluctantly giving the Debtor one more opportunity to obtain approval of an enforceable contract from a good faith purchaser to proceed with a Section 363 sale of the Debtor Units and Non-Debtor Units to avoid dismissal. Consistent with prior rulings, the Court also refused to stay the Foreclosure by extending the automatic stay to the defendant RUOs and, further, declined to provide any further direction to the state court tribunal regarding the Foreclosures.

22. On November 2, 2017, the Court entered several Orders emanating from the

November 1st Hearings, which included the following: (i) Order Granting Motion to Approve Bid Process, Setting Deadline for Debtor to File Sale Motion and Setting Hearing (the "Bid Process Order")[D.E. #427], wherein the Court set certain deadlines and scheduled an evidentiary in connection with the New Sale Motion; (ii) Order Setting Hearing on Motion to Dismiss (the "Order Resetting Renewed Dismissal Motion") [D.E. #426], resetting the Renewed Motion to Dismiss for hearing; (iii) Order Denying Approval of Second Amended Disclosure Statement, Setting Deadlines, and Setting Hearing on Third Amended Disclosure Statement [D.E. #425]; and (iv) Order Denying In Part Motion to Compel Utility Payments and Setting Further Hearing ("Order on Motion to Compel") [D.E. #428] (hereinafter, the "Orders").

23. With respect to the Bid Process Order, the Court set various deadlines by which: (i) "Prospective purchasers shall submit their proposed purchase contracts to the Debtor by 5:00 p.m. on November 1, 2017 (See, ¶2); (ii) "The Debtor shall file a Motion to Approve Sale (the "Sale Motion") by November 10, 2017; (iii) "Objections to the Sale Motion shall be filed by November 22, 2017"; and (iv) "The Court will conduct an evidentiary hearing on the Sale Motion on November 28, 2017, at 2:30 p.m.".

24. As for the Order on Motion to Compel, specifically, ¶3(A) and (b) thereof, the Court posed several questions regarding the differences in the Atlantic Broadband charges and allocation of Shared Costs of the Debtor, during the months of June through October, 2017. Because these issues are relevant to the Objection, the Schecher Group shall address and answers these questions below.

25. Further, pursuant to the Orders, the Court has scheduled the above matters, among others, for hearing on November 28, 2017 at 2:30 p.m., and pursuant to its Order Setting Second Day of Hearings (If Necessary) [D.E. #439] continued the hearings, if necessary, on November 29, 2017, at 10:00 a.m. (the "November 28th Hearings").

26. On November 15, 2017, the Debtor filed its *Third Amended Disclosure Statement in Support of Third Amended Plan of Reorganization of Sixty Sixty Condominium Association, Inc.* (the "Third Amended Disclosure Statement")[D.E. #445] and *Third Amended Plan of Reorganization of Sixty Sixty Condominium Association, Inc*. (the "Third Amended Plan") [D.E. #444], which has been objected to by the Schecher Group and FS&B [D.E. #451]. A separate objection to the Third Amended Disclosure Statement is being filed contemporaneously with this Objection.

ii. The Sale Motion, KFI Offer and Holdings Offer.

27. On November 10, 2017, the Debtor filed the Debtor's Motion For Entry Of Order Authorizing Sale Of Debtor's Real Property Located At 6060 Indian Creek Drive, Miami, Fl 33140 To Kingsfisher Island, Inc. And Payment Of Costs Associated Therewith and proposed contracts (the "Sale Motion")[D.E. #432].

28. Significantly, the Sale Motion seeks approval of two separate, but substantially similar, Contracts For Purchase and Sale (the "Contracts") submitted by (a) "Kingfisher Island, Inc. (KFI), a Delaware corporation, or its assigns" (the "KFI Offer"); and (b) 6060 Condo Holdings, LLC, a Florida Limited Liability Company and/or its assigns (a company to be formed by the Yanko Group, LLC) (the "Holdings Offer"), attached thereto as Exhibits "A" and "B" respectively. According to the Sale Motion, the Debtor requests that the Court approve KFI Offer as the "winning bidder" and the Holdings Offer as the "back-up bidder".

29. Notably, the Sale Motion does not include a copy of the fully executed Contracts by all parties. As of the filing of this Objection, the Debtor has not filed fully executed copy of the Contracts with the Bankruptcy Court.

30. In reality, both the KFI Offer and Holdings Offer are nothing more than unenforceable illusory Contracts consisting of contingent, non-binding offers to purchase the "Condominium Property" and are a clear departure from the Debtor's sound business judgment to proceed with another lengthy and costly Section 363 bankruptcy sale in this Bankruptcy Case.

iii. The SOS Bankruptcy Case and Filing of the "Bad Faith" Petition.

31. On November 9, 2017 (the "Petition Date"), Sixty One Sixty, LLC (the "Debtor") filed a voluntary petition for relief under Chapter 11 (the "Petition") of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "SOS Bankruptcy Case")[3] [D.E. #1].

32. On November 9, 2017, the Debtor also filed its Emergency Motion to Transfer Case to the Honorable Robert A. Mark (the "Motion to Transfer") [Main Case D.E. #3], along with its Corporate Ownership Statement, with no disclosures [D.E. #2].

33. In addition, on November 9, 2017, the SOS Debtor filed the Complaint for Injunctive Relief, Including Temporary Restraining Order and Preliminary Injunction (the "Adversary Complaint") [Adv. D.E. #1] against Schecher Group, Inc. ("Schecher Group" or

[3] For purposes of this Objection, the SOS Bankruptcy Case shall be collectively refer to as the matter *In re: Sixty One Sixty, LLC*, Case No. 17-23573-RAM and related Adversary Case, *Sixty One Sixty, LLC, Plaintiff v. Schecher Group, Inc., Defendant,* Adversary Case No. 17-01438-RAM.

"Defendant") in the matter styled *Sixty One Sixty, LLC, Plaintiff v. Schecher Group, Inc., Defendant,* Adversary Case No. 17-01438-LMI (the "SOS Adversary Case").

34. On November 9, 2017, the SOS Debtor also filed its Emergency Motion for Injunctive Relief, Including Temporary Restraining Order and Preliminary Injunction Against Schecher Group, Inc. (the "Emergency Motion for Injunctive Relief") in the SOS Adversary Case, seeking injunctive relief to enjoin the Schecher Group from prosecuting approximately thirty-one (31) state court foreclosure actions against various members and insiders of the SOS Debtor (the "Foreclosures").

35. Indeed, the Foreclosures were pending over a year prior to the Petition Date, and were transferred at the insistence and upon motion of the defendants to complex business division, and assigned to the Honorable Beatrice Butchko ("Judge Butchko") in the Miami-Dade Circuit Court (the "State Court"). In fact, the trials in the Foreclosures were already scheduled to begin on November 14 & 15. 2017 (the "Trials") which, as discussed below, was the central motivating factor in filing the Petition in a coordinated effort between the SOS Debtor and its Manager, Zulu Bravo, LLC ("Zulu Bravo"), to collude with KFI, the proposed "winning bidder", to frustrate and impede the legitimate efforts of the Schecher Group to foreclose the Schecher Liens against the Residential Units subject of the Foreclosures.

36. On November 13, 2017, the Schecher Group filed its Emergency Motion By Schecher Group, Inc. To (I) Dismiss Chapter 11 Bankruptcy Case For "Bad Faith" Filing Pursuant To 11 U.S.C. §1112(b) And/Or, Alternatively (II) For Relief From The Automatic Stay "For Cause" Pursuant To 11 U.S.C. §362(d), And (III) For Sanctions Pursuant To Federal Rule Of Bankruptcy Procedure 9011 (hereinafter, the "SOS Motion to Dismiss"). In the interest of time, the facts and legal arguments set forth in the SOS Motion to Dismiss are incorporated by reference and made a part of this Objection.

37. On November 14, 2017, the SOS Bankruptcy Case was transferred and reassigned to this Bankruptcy Court pursuant to the Order Granting Motion to Transfer [D.E. #8&9]. Further, due to a notice of filing deficiency, the SOS Motion to Dismiss was re-filed with the Bankruptcy Court [D.E. #12].

38. Accordingly, on November 15, 2017, the Court entered its Order Setting Response Deadline and Hearing on Schecher Group, Inc.'s Motion to Dismiss [D.E. #13], setting

a deadline for the SOS Debtor to file a response to the SOS Motion to Dismiss by November 22, 2017, and scheduling that matter for consideration during the November 28th Hearings.

39. On November 21, 2017, counsel for the Debtor, Michael S. Hoffman, Esq. of Hoffman, Larin & Agnetti, P.A. (the "Hoffman Law Firm"), filed its Disclosure of Compensation of Attorney for Debtor(s)(the "Disclosure") [D.E. #21] and Debtor's Application To Employ Michael S. Hoffman, Esq. As General Bankruptcy Counsel Nunc Pro Tunc to November 9, 2017 (the "Application") (collectively, the "Disclosures") [D.E. #22]. By following the "money trail," the Disclosures and Application provide further evidence of the bad faith filing of the SOS Bankruptcy Case and KFI's lack of good faith as a buyer under the KFI Offer.

40. In the Disclosures, the Hoffman Law Firm reveals that the SOS Debtor's retainer in the amount of $6,700 was paid by Zulu Bravo. Although this fact, standing alone, may not raise any "red flags", the Application at ¶7 surely does wherein it states, as follows:

> "The Debtor is owned by various owners of condominium units at the Sixty Sixty Condominium Association, Inc. and is managed by Zulu Bravo, LLC, a Wyoming limited liability company ("Zulu Bravo"). The managing member of Zulu Bravo is Todd Mikles. Mr. Mikles also has an interest in Kingfisher Island, LLC, an entity contracted to acquire assets from the Debtor. Hoffman and HLA have represented other entities owned by Mr. Mikles in unrelated state court proceedings. The Debtor does not believe that Hoffman and HLA's representations of these other entities represents a conflict under the Bankruptcy Code or applicable Florida law." (emphasis added).

41. For whatever reason, *and the Bankruptcy Court is certainly free to draw its own conclusions*, both the Updated Messana Declaration and Application, are very careful so as not to truly disclose the precise nature and interest of Mr. Mikles in the SOS Debtor, Zulu Bravo, KFI, and each of the law firms representations of entities affiliated with the Debtor, SOS Debtor, KFI and Mikles. In any event, here are some other facts to consider as part of the Sale Motion:

a. according to the Articles of Organization for the SOS Debtor filed with the Florida Secretary of State on November 2, 2017, Mr. Mikles was listed as its "Manager" and was the incorporator of the shell corporation;

b. Zulu Bravo was formed on November 8, 2017, *just one day before the Petition Date* in the SOS Bankruptcy Case;

c. according various public records filed with the Statement of Information filed with the California Secretary of State, the corporate address for KFI and Zulu Bravo is located at 2150 Palomar Airport Road, Suite 205, Carlsbad, CA 92011;

d. neither KFI nor Zulu Bravo are registered with nor authorized to transact business within the State of Florida; and

e. other public information discloses Mr. Mikles, as President & CEO, and Jennifer Connolly, as Assistant Secretary, of KFI with principle offices located at 750 B Street Suite 2600-2620, San Diego, CA 92101. Furthermore, Mr. Mikles, Ms. Connolly and KFI are closely affiliated with another entity known as Professional Partners Group, LLC ("PPG"), and its Associate Counsel, Adam Kent ("Kent").

42. Pursuant to documents recently produced to Schecher Group pursuant to the Court's Order Granting Motion to Shorten Time [D.E. #446], the facts and circumstances surrounding the filing of the SOS Bankruptcy Case, and the fraudulent scheme to transfer the Residential Units to the newly formed SOS Debtor to hinder, delay and defraud the creditors and delay the Foreclosures, is coming into much sharper focus with startling results.

43. This obvious sham to transfer the Residential Units[4] has undermined the integrity of this Bankruptcy Court and was perpetrated through various artifices that included the following documents: (a) Contract for Purchase and Sale executed by KFI and individual RUOs; (b) Property Contribution Agreement; (c) Limited Liability Company Agreement of Sixty-One Sixty, LLC; and (d) Quit-Claim Deeds. These contrivances were coordinated by the SOS Debtor, KFI, Mr. Milkles, and other confederates actively involved in "rolling up" the transfer of the Residential Units to the SOS Debtor, which include Kent, Ms. Garcia and Realtor, Marina Solo ("Ms. Solo"), who have all attended many hearings in this Bankruptcy Case.

44. On November 21, 2017, the SOS Debtor unabashedly filed the (i) Debtor's Expedited Motion For Entry of an Order Authorizing Sale of Debtor's Real Property Located at 6060 Indian Creek Drive, Miami, Florida 33140 To Kingfisher Island, Inc. [D.E. #23] (the "SOS Debtor Sale Motion"); (ii) *Ex Parte* Motion to Shorten Time to Notice Sale Motion [D.E. #25]; and (iii) Debtor's Motion for an Order Instructing Schecher Group, Inc. to Comply With the Automatic Stay and For Sanctions for Violation of the Automatic Stay (the "Motion to Enforce Stay") to coincide with the November 28th Hearings.

45. The Schecher Group objects and opposes the SOS Debtor Sale Motion and Motion to Enforce Stay on the grounds set forth in this Objection. Further, these strong-arm tactics are wholly inappropriate given the pending SOS Motion to Dismiss and the fact that the SOS Debtor has not even filed its Schedules, Statement of Financial Affairs nor has appeared for

[4] The Schecher Group has been unable to confirm the Residential Unit numbers transferred to the SOS Debtor.

a §341 meeting of creditors.

46. Given the time constraints for the Schecher Group to file this Objection, and other objections in this Bankruptcy Case and SOS Debtor Case, the undersigned counsel is unable to connect all of the dots. The apparent gamesmanship of the Debtor, SOS Debtor, KFI, and participating RUOs can only lead to the inescapable conclusion that this three-ring circus is nearing a fraud upon the Bankruptcy Court. However, the means of achieving approval of the Sale Motion and SOS Debtor Sale Motion, do not justify the ends.

iv. Status of the Foreclosures and Rulings by the State Court at the Trials.

47. The current status of the Foreclosures and rulings by the State Court during the Trials must be taken be considered when evaluating the standards for approving the Sale Motion. There are approximately (31) Residential Units currently at issue in the Foreclosures, which have already proceed to trial on November 14 & 15, 2017 (the "Trials") in the State Court and not subject to the automatic stay in the Bankruptcy Case and SOS Bankruptcy Case.

48. The Debtor's insistence that the Sale Motion should be approved because the "KFI Offer commits to paying Schecher up to $4.1Million to satisfy its claims and liens against all units sold in conjunction with the KFI Offer at closing" is based largely on highly speculative amounts required to close on the Contracts and, of course, reminiscing over a Settlement Conference that never materialized into a settlement of the Shared Costs.

49. The reliance by the Debtor on the $4.1 Million number in any subsequent filings following the Settlement Conference is simply a "red-herring" and has never been agreed to by the Schecher Group as part of any formal settlement. Presumably, the only purpose of the Debtor continuing to disclose this information to is to unduly influence this Court in the event that the Shared Costs Adversary proceeds to trial and induce prospective buyers into falsely pursuing a so-called "bulk sale" that is not feasible.

50. The phantom $4.1Million target, which is the cornerstone of the KFI Offer and Holdings Offer (collectively, the "Bid Offers") is a material contingent term of the Contracts bearing no reasonable relationship to the current indebtedness due for the Shared Costs as of November 1, 2017 and this number only increases monthly since many of the RUOs have refused to pay for any Shared Costs. Accordingly, the Schecher Group will not and cannot accept $4.1 Million in satisfaction of the Schecher Liens as part of the Bid Offers with a "potential" closing date months away.

51. First, it should be noted that on November 10, 2017, the SOS Debtor filed a Suggestion of Bankruptcy (the "Suggestion") in the Foreclosures before the commencement of the Trials in another concerted effort to delay the State Court proceedings, despite having filed the Emergency Motion for Injunctive Relief arguing for *Otero-Mills* injunctive relief, which has not nor should be granted by the Bankruptcy Court.

52. Second, having reviewed the Suggestion and recognizing that the SOS Debtor is not nor could be a defendant in the Foreclosures, the State Court correctly ruled that the automatic stay under 11 U.S.C. §362 did not apply to stay the Trials.

53. Third, given Judge Butchko's ruling, the Schecher Group was required to and was well within its legal rights under Florida and federal bankruptcy law to proceed with the Trials in the Foreclosures. Therefore, the Motion to Enforce Stay must be denied with prejudice and sanctions awarded to the Schecher Group for even having to respond to this motion.

54. During the first (2) two days of the Trials, the Schecher Group introduced substantial, competent evidence establishing the amounts due for the Schecher Liens against the subject Residential Units through several witnesses, including Mr. Richard Schecher and an accounting expert retained in the Foreclosures, which was accepted by Judge Butchko. The evidence consisted of, among other things, the Unit Ledgers and Statement of Account for each of the foreclosed Residential Units, which were prepared in accordance with the annual operating Budgets prepared by and published to all Units owners by the Hotel Unit.

55. Specifically, the Unit Ledgers and Statement of Accounts contain an itemized accounting and break down of the principal amount of the budgeted Shared Costs, late charges and interests, owed for each of the Residential Units. The State Court not only accepted these business records kept and maintained by the Schecher Group into evidence but remarked on the record that "budgets" control as with any business of this kind.

56. As of the filing of this Objection, the Trials have not concluded, but will resume sometime in February, 2017, due to conflicts with defense counsel, Inger Garcia, Esq. and should conclude at that time. The Schecher Group anticipates that it will prevail at the Trials.

57. As such, in the interest of judicial economy, comity between the federal and state court systems, and recognizing that the State Court, as a court of competent jurisdiction, has made substantial progress towards adjudicating the Schecher Liens, the State Court should be able to adjudicate the Foreclosures through final judgment and judicial sale, thus obviating the

need for determining the "Baseline" in the Shared Cost Adversary.

v. The Shared Costs Due to Satisfy the Schecher Liens.

58 At the conclusion of November 1st Hearings, the Bankruptcy Court noted that it may be necessary to tee up on summary judgment the question of whether HU Assessments are determined by analyzing the "budgeted v. actual" expenses in the Shared Cost Adversary. However, the amount of Shared Costs far exceeds $4.1Million under either scenario especially after months of unpaid Utilities and other HU Assessments that have continued to accrue months after the Settlement Conference.

59. By way of illustration, attached hereto as **Exhibit "A"** is the Summary of Shared Costs Due For HU Assessments (the "Shared Cost Summary"). In essence, the Shared Cost Summary is a compilation and summary of all HU Assessments which are now due and owing the Hotel Unit as of November 1, 2017, and includes the Commercial Units and all Residential Units which could have conceivably be offered for sale as of that date.

60. According to the Shared Costs Summary, the Schecher Group is owed a total of $12,254,441.41 (the "Schecher Lien Amount"). The Schecher Lien Amount represents unpaid and accrued Shared Costs, which includes principal assessments, late charges, interest and estimated fees, all of which are recoverable under Section 12 of the Declaration.

II. OBJECTIONS TO APPROVAL OF KFI OFFER AND HOLDINGS OFFER.

The entire Section 363 sale process that has unfolded in connection with the Sale Motion has evolved into a clear and undeniable abuse of the bankruptcy process. Unquestionably, at the conclusion of the November 1st Hearings, the Bankruptcy Court made it abundantly clear that the Debtor was being given one last chance to obtain a good-faith buyer for the Debtor Units, and that enforceable Contracts must be submitted by the bid deadline under the Bid Process Order. Otherwise, the Debtor would be facing dismissal of the Bankruptcy Case. Indeed, anyone who attended the November 1st Hearings, like Mr. Kent, Ms. Garcia, and Ms. Solo, were left with the inescapable conclusion that this Court was not going tolerate any more foolishness in proceeding with the Sale Motion and Foreclosures. Unfortunately, that's exactly what we got!

There is little doubt that the direct links and affiliations between the Debtor and certain of its Board members and RUOs, KFI, SOS Debtor, Zulu Bravo, and their respective members, insiders, representatives, control persons, and professionals evidence close intercompany and interpersonal relationships, fraudulent transfers of secured assets, comingling of estate assets and

debts, overlapping and mismanagement corporate assets and suspect financial entanglements, warranting denial of the Sale Motion and disqualification of KFI as a "good faith" purchaser under the KFI Offer. More importantly, the integrity of the Bankruptcy Court and the protection of creditors demand the dismissal of both the Bankruptcy Case and SOS Bankruptcy Case.

In order to approve the Sale Motion in which the Debtor seeks to sell substantially all its assets consisting of the Commercial Units (CU-1, CU-2, CU-3 and CU-4) and RU# 505 (the "Debtor Units") outside the ordinary course of business, along with an undisclosed number of Residential Units, the Debtor must show (1) that a sound business reason exists for the sale; (2) there has been adequate and reasonable notice to interested parties, including full disclosure of the sale terms and the Debtor's relationship with the buyer; (3) that the sale price is fair and reasonable; and (4) that the proposed buyer is proceeding in good faith. *See e.g., In re Delaware & Hudson Ry. Co.,* 124 B.R. 169, 176 (D.Del.1991); *WBQ Partnership v. Virginia Dep't of Med. Assistance Serv. (In re WBQ Partnership),* 189 B.R. 97, 102 (Bankr.E.D.Va.1995). The Court considers each element in determining whether the Debtor has met its burden. See, *In re Medical Software Solutions,* 268 B.R. 431 (D. Utah 2002).

For the reasons articulated in this Objection, and other evidence to be presented during the November 28th Hearings, the Schecher Group submits the Debtor has failed to meet its heavy burden since, among other things, the Sale Motion leaves many questions unanswered and the contingencies of the Bid Offers will not be satisfied at closing. Among other concerns, the Bid Offers, are predicated on Bankruptcy Court approval of wholly contingent Contracts riddled with illusory provisions and unattainable contractual terms that cannot be overcome given the Schecher Lien Amount set forth in the Shared Cost Summary attached hereto as Exhibit "A".

A. No Sound Business Reason Exists for the Proposed Sale Nor is the Purchase Price For the Commercial Units And Residential Units Fair and Reasonable.

Section 363(b) provides that "the trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). The majority of bankruptcy courts requires "a judge determining a §363(b) application [to] find from the evidence presented at the hearing a good business reason to grant such an application" to sell substantially all of a debtor's assets outside the confines of a confirmed plan. *In re Medical Software Solutions*, 286 B.R. 431 (D. Utah 2002). These factors include: (1) the proportionate value of the asset to the estate as a whole; (2) the amount of elapsed time since the

filing; (3) the likelihood that a plan of reorganization will be proposed and confirmed in the near future; (4) the effect of the proposed disposition on the future plans of reorganization; (5) the proceeds to be obtained from the disposition vis-a-vis any appraisals of the property; (6) which of the alternatives of use, sale or lease the proposal envisions; and (7) whether the asset is increasing or decreasing in value. See also, *In re Knott*, 2015 WL 251705 (M.D. Fla. 2015).

Here, the Sale Motion does not provide a sufficient basis to conclude that the Debtor has not met its burden of demonstrating that it has exercised its sound business judgment in proceeding with the proposed 363 sale of the Commercial Units and available Residential Units. In addition, the Debtor has failed to demonstrate the Purchase Price for the Commercial Units and Residential Units pursuant to the Offers are fair and reasonable. In this regard, given the Shared Costs Summary, the Sale Motion is insufficient to overcome the presumption that Units can sold free and clear of the Schecher Liens pursuant to 11 U.S.C. § 363(f).

Before addressing the specifics of the Bid Offers, the Schecher Group objects to any sale going forward under the KFI Offer and Holdings Offer for the reasons stated above, which demonstrates that the contingencies under the two Contracts are unlikely to be met after the Due Diligence Periods expire. Realistically, there is no conceivable way for the Sellers to meet the Minimum Participation Requirement of 50 Units, and reducing the Schecher Lien Amount to anything near $4.1 Million even if the Debtor were able to convince the Bankruptcy Court that "actual" not "budgeted" Shared Costs are due to the HOU. The Schecher Group also requests that the Court direct the Debtor to file fully executed Contracts disclosing and identifying all "non-debtor residential unit owners (RUOs) necessary to satisfy the Minimum Participation Requirement" prior to and in connection with the Bid Process Order.

More importantly, according to the Shared Cost Summary, the Schecher Liens will not be satisfied at closing given the outstanding and unpaid amounts due for Shared Costs that exceed $12.2 Million. Even assuming, *arguendo*, that Estimated Fees were somehow not recoverable, in whole or in part, which the Schecher Group denies, then Schecher Lien Amount would be only be reduced to approximately $11.8 Million and counting. Therefore, any arguments by the Debtor that the strike price for the Units can be achieved by capping the "Schecher Lien Amount" under the KFI Offer to $4.1 Million must be rejected. No doubt, the Contracts were negotiated by reference to the Settlement Conference in which the parties reached an impasse.

If, as asserted in ¶19 of the Sale Motion, the "Debtor and others attending the Settlement Conference understood that resolution had been achieved with certain deal points to be finalized between Schecher and MRC (the "Settlement"), then the Debtor could have, but chose not to, file a motion to enforce the Settlement. Instead, the Debtor continues to seek refuge by alluding to its misplaced reliance on the Report of Mediator and a settlement that never occurred. Moreover, the Schecher Group is foreclosing and has proceeded to trial on thirty-one (31) Residential Units currently at issue in the Foreclosures which directly impacts the Minimum Participation Amount. Given the facts underpinning the SOS Motion to Dismiss, there is no justification for delaying the Trials which will conclude in February, 2017, and preventing the Schecher Group from obtaining judgments of foreclosure and proceeding to judicial sale on the Residential Units.

Turning to the Bid Offers, the crux of the material terms and conditions of the Contracts, leave the KFI Offer and Holdings Offer vulnerable to unilateral termination by these bidders, even after the expiration of the Due Diligence Periods under ¶7 of the Contracts. That is, neither KFI nor Holdings are obligated to close on the transaction, and are entitled to a refund of the Deposits, unless a determination is made by the Bankruptcy Court that the Schecher Liens are $4,100,000 or less (the "Schecher Lien Contingency").

18. Specifically, regarding the KFI Offer, ¶¶2(c.) and 8(c) of the Contract provides, in pertinent part, as follows:

> "¶2(c.) - $4,100,000.00 or less paid to the Schecher Group, Inc. d/b/a SG Shared Components (the "Schecher Claim Amount") at Closing, in full and final satisfaction of its claims asserted against all units subject to sale under this Agreement, including any and all claims asserted in Case No. 16-26187-RAM, in the United States Bankruptcy Court, Southern District of Florida, Miami Division."
>
> ***
>
> "¶8(c) - If the Bankruptcy court determines that the Schecher Claim Amount exceeds $4,100,000, Buyer may terminate this agreement within (15) days of such court determination and receive a full refund of its Refundable Deposit."

Whereas, ¶2(c) of the Contract relating to Holdings Offer provides:

> "Buyer will accept the purchase of the Condominium Property subject to amounts owed, not to exceed $4,100,000, to the current hotel operator from the Condominium Property owners as well as the Association."

Moreover, the Contracts include different per Unit price allocations for the Commercial and Residential Units, which in the case of the KFI Offer, are more favorable and advantageous

to the RUOs and less favorable to the Debtor and creditors of the Estate. For example, under the KFI Offer, the Debtor is being $250,000 per Commercial Unit ($250,000 x 4 = $1,000,000) and $90,000 for RU #505 (the Debtor Units) for a total purchase price of $1,090,000, while the individual RUOs are being paid $90,000 per Residential Unit with a "Minimum Participation Requirement" of 50 Units, plus another "$90,000 paid towards non-debtor Sellers' legal fees and costs, at Closing".

By contrast, under the Holdings Offer, the aggregate amount that would be paid to the Debtor for the Debtor Units is $1,300,000, broken down as $303,750 per Commercial Unit and $85,000 for RU# 505, which yields a greater amount available for distribution to creditors, administrative claims, such as payment of all Utilities due by the Debtor and RUOs. Further, per the Holdings Offer, the RUOs would receive only $85,000 for their Units with same Minimum Participation Requirement as noted above applicable for the Residential Units. The decision by the Debtor to accept the KFI Offer over the Holdings Offer appears to be geared more towards the Board's desire to obtain higher prices for their Residential Units rather than discharging their fiduciary duties to protect creditors of the estate. With regard to other terms of the KFI Offer, such as the non-refundable $30,000 non-refundable "Initial Deposit" is a mere pittance and barely covers the cost of the Debtor's allocable share of Utilities. Besides, any forfeited deposits under these deals should be recoverable by the Schecher Group. In the end, the Sale Motion is more about the RUOs than reorganizing the Debtor, paying administrative claims in an otherwise administratively insolvent estate and providing for the continuing existence of the Debtor and Hotel Unit.

B. The Debtor Has Not Provided Adequate and Reasonable Notice, Including Full Disclosure of the Sale Terms and the Debtor's Relationship with the Buyer to Creditors of the Estate.

For the reasons stated in this Objection, the Schecher Group submits that the Debtor has not provided adequate and reasonable notice of the Sale Motion, including a full disclosure of the sale terms and the Debtor's relationship with KFI to creditors of the estate. Certainly, the Updated Messana Declaration and Disclosures by the Hoffman Law Firm indicate a common proximity to KFI through prior and present representations of affiliated entities in which Mr. Mikles has an interest. This should not be ignored as the Court considers the merits of the Sale Motion and a proper inquiry should be made regarding the exactness of these representations in

determining the good faith of the KFI Offers.

Moreover, after Mr. Schecher had an opportunity to meet with KFI, Mr. Mikles and Mr. Kent in May of 2017, to discuss a potential deal that included the sale of the Hotel Unit, and other communications since that time, the Schecher Group determined that KFI is not a suitable buyer for the 6060 Building and has made it known that the Hotel Unit is not for sale. However, KFI has persisted in trying to convince the Schecher Group to sell the HUO. Having been unsuccessful with dealing honestly with the Schecher Group, KFI has embarked on a new strategy which is to use the Bankruptcy Court and these bankruptcies to apply maximum pressure to force a sale of the Hotel Unit. In fact, in an email dated October 17, 2017, from Mr. Kent to Mr. Lieberman, Mr. Kent stated:

> "Brett,
>
> Please be clear that we have a partner/buyer here and the goal is to clean up and sell it as a hotel. We are open to Schecker [sic] participating in that and/or selling now at his price. Also, please say that we will pay the RUOs not more than $90k, we don't need to agree to a set price with Schecker right now."

The stated goal of KFI to drive the Schecher Group from the 6060 Building and the Debtor's reluctance to push back and enable such conduct by seeking approval of the KFI Offer through the sale process is ominous. This will not stand.

More troubling, the Debtor appears to have done little, if any, vetting of Holdings, its principals, and the financial soundness of the 'back-up bidder.' Oddly, as the Submission Deadline, the date in which Holdings purportedly executed the Contract for the Holdings Offer, this company which is described as a "Florida Limited Liability Company" according to the public records maintained by the Florida Secretary of State at Sunbiz.org. The inadequacy of the disclosures is further belied by the fact that Holdings Contract was signed by "Evan Kagan, Manager" of Holdings, but there is no record of the appointment of a manager for Holdings. This is further complicated by the Debtor's statements in the Sale Motion that: "An offer was submitted by KFI (the "KFI Offer") and Holdings (a company to be formed by the Yanko Group, LLC) ¶31. Yet, there is no evidence that Yanko Group, LLC ("Yanko") was incorporated in Florida. And, if Yanko was incorporated elsewhere, its interest and relationship to Holdings should be adequately disclosed to creditors.

Furthermore, in ¶25 of the Contract, there is an "Assignability" provision allowing for

KFI and Holdings to each assign their respective Contracts, while no such provision is made for the Sellers. But, as the Court has already seen, certain of the RUOs have breached this contractual provision by transferring the Residential Units and any purported contract rights under the Bid Offers to the SOS Debtor which led to the bad faith Chapter 11 filings. Neither the Bankruptcy Court, Schecher Group nor any of creditors of the estate were advised of these assignments at the November 1st Hearings, although it was most certainly discussed and in the mind of KFI and RUOs, and their respective counsel, at that time. This bombshell was literally dropped on the Schecher Group on November 9, 2017, by the Hoffman Law Firm, just one day prior to the deadline for the Debtor to file the Sale Motion. Accordingly, the Debtor has not met its burden of demonstrating full and adequate notice and disclosure of the Bid Offers.

Additionally, the Contract submitted for the KFI Offer impermissibly provides that "It is anticipated that the Buyer may enter a partnership for the development of the property." This contrary to the express terms and conditions of the Declaration and the Hotel Unit will not allow for "development" of the 606 Building by anyone other than the HUO. The Schecher Group also reasserts and incorporates by reference of its prior objections to the approval of the MRC Contract filed of record with the Bankruptcy Court to the extent applicable here. This includes, but is not limited to, the request for personal guaranties by KFI and Holdings with respect to any assumption of liabilities of the Schecher Liens if not satisfied at closing and inclusion of indemnification and hold harmless provisions during the Due Diligence Period which should extent to the Hotel Unit. Presently, the Contracts are objectionable and should include language guarding against intrusive testing of the Units.

Presumably, in order to perform these tests and investigations, the bidders may need to enter upon the 6060 Building and access the Easements provided for in the Declaration to inspect individual Residential Units that may be subject of the Offers. The risks associated with conducting due diligence on the Condominium Property, as with any real estate contract, should be limited to reasonable, non-evasive, non-soil boring tests and investigations, and excluding any Phase I and II Environmental Studies on the entire 6060 Building.

Lastly, the Bankruptcy Court should consider that on November 2, 2017, the same day as the formation of the SOS Debtor, the Association belatedly served its First Notice of Annual Meeting of Sixty Sixty Condominium Association, Inc., and related documents scheduling the Annual Meeting and Election of the new Board for Friday, January 5, 2018, at 3:30 pm, at the

offices of Messana, PA, located at 401 East Las Olas Boulevard, Suite 1400, Fort Lauderdale, Florida 33301. The Debtor was required under the Declaration and By-Laws, including Chapter 718, Florida Statutes, to have held this election by Sept 2017. Contrary to the express provisions of the Declaration, and based upon the filing of the SOS Bankruptcy Case, there is uncertainly with a duly elected Board voting on the approval for the sale of the Debtor Units and to confirm a plan consistent with Florida law.

C. KFI Is Not a "Good Faith" Purchaser And Should Be Disqualified As the Winning Bidder Under the KFI Offer.

Most importantly, the Schecher Group argues that KFI is not a "good faith" purchaser that should be afforded the protections of 11 U.S.C. §363(m) and should be disqualified as the winning bidder selected by the Debtor. When approval of a pre-confirmation §363(b) sale is of all, or substantially all, of the Debtor's property, the sale transaction should be "closely scrutinized, and the proponent bears a heightened burden of proving the elements necessary for authorization." *In re Channel One Communications, Inc.,* 117 B.R. 493, 496 (Bankr.E.D.Mo.1990); *See In re Industrial Valley Refrigeration and Air Conditioning Supplies, Inc.,* 77 B.R. 15, 17 (Bankr.E.D.Pa.1987) (holding that "the element of 'good faith' focuses principally on the element of special treatment of the debtor's insiders in the sale transaction and contemporaneous transactions therewith").

Moreover, under §363(m) of the Code, the purchaser of a Debtor's assets must be a good faith purchaser to enjoy the finality of a sale. The Tenth Circuit has determined that a "good faith" purchaser is "one that buys in good faith, and for value." *Tompkins v. Frey (In re Bel Air Assocs., Ltd.),* 706 F.2d 301, 304 (10th Cir.1983). In *Bel Air,* the court found that, for the purposes of §363(m), actions that destroy a purchaser's good faith include, "fraud, collusion between the purchaser and other bidders or trustee, or an attempt to take grossly unfair advantage of other bidders." *Id.* at 305 n. 11 (citation omitted). *See also In re Abbotts Dairies of Pennsylvania, Inc.,* 788 F.2d 143, 147 (3d Cir.1986) (stating that the typical misconduct involves fraud or collusion). Further, although the Bankruptcy Code does not define the term "good faith purchaser", the First Circuit has held that a good faith purchaser is one who purchases property (1) in good faith; (2) for value; and (3) without knowledge of adverse claims. The "good faith" of a buyer concerns the integrity of the buyer's conduct during the sales process. *In re Old Cold, LLC* 558 B.R. 500 (1st Cir. 2016).

The facts that have unfolded with respect to the Sale Motion and filing of the SOS Bankruptcy Case during the last several weeks leading up to the November 28th Hearing are egregious and deserving of a finding by the Bankruptcy Court that KFI has not acted in good faith during the sale process. Preliminarily, the Schecher Group directs the Court's attention to the SOS Motion to Dismiss, which it incorporates by reference hereto, and the bad faith filing of the Petition in the SOS Bankruptcy Case, in which KFI orchestrated without regard to the prior rulings of the Bankruptcy Court and respect for the bankruptcy process.

The Petition in the SOS Bankruptcy Case was clearly filed in "bad faith" to hinder, delay and defraud creditors and was not intended for legitimate reorganizational purposes. Rather, through a series of fraudulent transfers of the Residential Units with actual knowledge of the Foreclosures, the SOS Debtor, KFI and participating RUOs, acting in concert through common principals, ownership interest and control persons connected directly to the SOS Debtor, strategically timed the sham bankruptcy to purposefully delay, impede and frustrate the legitimate efforts of the Schecher Group to proceed with Trials. Further, the filing of the SOS Bankruptcy Case on the eve of Trials and seeking a temporary restraining order to enjoin the Schecher Group from continuing to prosecute the Foreclosures, commenced over a year before the Petition Date, was calculated to circumvent several crucial orders entered in by the Bankruptcy Court expressly declining to extend the automatic stay to the Foreclosures.

This misconduct is more than sufficient to destroy a purchaser's good faith status which involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders, such as Holdings. Significantly, in the Emergency Motion for Injunctive Relief filed in the SOS Bankruptcy Case, the SOS Debtor advises that: "The Debtor has agreed to sell its Units to a buyer, Kingfisher Island, Inc. ("KFI"), upon certain terms that contemplate the determination and satisfaction of valid creditor claims." ¶11. There is nothing in the Sale Motion nor any filings in either bankruptcies mentioning similar agreements by the SOS Debtor to sell the Units to Holdings as a 'back-up bidder' further evidencing the collusive nature of the KFI Offer and intent by KFI and Sellers to take grossly unfair advantage of other bidders in the sale process. Indeed, there is no indication that Zulu Bravo, the purported "manager" of the SOS Debtor, which is under the control of Mr. Mikles, has authority to convey the Residential Units to any purchaser other than KFI.

This untenable and outrageous situation is further exacerbated by the recent filing of the

SOS Debtor Sale Motion and Motion to Enforce Stay to be considered at the November 28th Hearings in an effort to ram through a sham sale of Residential Units in clear violation of the Schecher Group's right of first refusal (ROFR) granted under the ROFR Order and Order Interpreting ROFR. Further, all of these recent events within such close proximity of the Sale Motion are a clear indication of the continued vexatious litigation and sanctionable conduct aimed at injuring the Schecher Group, thus disqualifying KFI as the winning bidder. Accordingly, for the reasons set forth in this Objection, and other arguments to be raised at the November 28th Hearings, the Bankruptcy Court should find that KFI is not a good faith purchaser entitled to protections under §363(m) in connection with any proposed sale under the KFI Offer and, further, that the Renewed Motion to Dismiss and SOS Motion to Dismiss should be immediately granted.

D. The Schecher Group Is Entitled to Credit Bid the Schecher Liens Pursuant to 11 U.S.C. §363(k).

Finally, based upon the arguments advanced in this Objection, and in the event that the Bankruptcy Court were to grant the Sale Motion, the Schecher Group should nonetheless be entitled and have the option to credit bid the full amount of its claim against the Debtor Units and Non-Debtor Units under the provisions of 11 U.S.C. §363(k). 11 U.S.C. § 363(k), which provides for a secured creditor's right to credit bid at a sale provides, as follows:

> (k) At a sale under subsection (b) of this section of property that is subject to a lien that secures an allowed claim, unless the court for cause orders otherwise the holder of such claim may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property.

The term "allowed claim" in section 363(k) makes no distinction between secured and unsecured claims. Further, 11 U.S.C. § 101(5) defines a "claim" as, among other things, a "right to payment, whether or not such right is...secured, or unsecured." Accordingly, the plain language of the statute makes clear that the secured creditor may credit bid its *entire claim,* including any unsecured deficiency portion thereof. *In re SunCruz Casinos, LLC*, 298 B.R. 833 (S.D. Fla. 2003); *In re Midway Invs., Ltd.,* 187 B.R. 382, 391 (Bankr.S.D.Fla.1995); See also, 3 COLLIER ON BANKRUPTCY ¶ 363.09, at 363–60.12 (15th ed. rev.2003).

While the Schecher Group expects the Bankruptcy Court to soon end this madness and prevent what KFI, through its agent, Mr. Kent, has already admitted is an attempted hostile takeover the 6060 Building through a tainted sale process, the Schecher Lien should have all

available tools at its disposal to compensate for the end-run around the ROFR Order and Order Interpreting ROFR. That is, the Schecher Group should be allowed the right to credit bid, at its option, both the Commercial Units and Residential Units subject of the Sale Motion up to the allowed amount of the Schecher Liens under 11 U.S.C §363(k)(the "Schecher Credit Bid"). Presently, in determining the amount of the Schecher Credit Bid, the Bankruptcy Court is free to consider and estimate the credit bid set forth in the Shared Cost Summary and the underlying Unit Ledgers and Statements of Account based upon the budgeted HU Assessments. Additionally, the Bankruptcy Court should find that the SOS Debtor and all participating RUOs in the fraudulent transfer of the Residential Units subject to the Schecher Credit Bid have willfully violated the ROFR Order and Order Interpreting ROFR, including the specific provisions of Section 17 of the Declaration governing the restrictions on the sale and conveyance of the Residential Units.

For the reasons set forth in this Objection, including the Renewed Motion to Dismiss and SOS Motion to Dismiss, as well as all other facts and circumstances surrounding the filing of the Sale Motion, the Schecher Group respectfully requests that relief requested by the Debtor to proceed with the proposed 363 sale of the Commercial Units and Residential Units is denied and that awarding the Schecher Group sanctions under 11 U.S.C. §105 and other applicable law.

III. RELIEF REQUESTED.

WHEREFORE, the Schecher Group, Inc., respectfully requests that this Court enter an Order: (i) sustaining this Objection; (ii) denying approval of the Sale Motion; (iii) disqualifying Kingfisher Island, Inc. as the winning bidder under the KFI Offer and finding that KFI is not entitled to the protections of a good faith purchaser under 11 U.S.C. §363(m); awarding the Schecher Group sanctions under 11 U.S.C. §105 and other applicable law; and (iv) granting such other and further relief as it deems just and proper.

Respectfully submitted this 22nd day of November, 2017.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objection has been furnished via CM/ECF Notification to all interested parties registered to receive electronic notice on this 22nd day of November, 2017.

By: /s/ Barry P. Gruher
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EXHIBIT "A"

SUMMARY OF SHARED COSTS DUE FOR HU ASSESSMENTS

UnitNo	Principal	Interest	Payments	Balance	Estimated Fees	Total
501	$161,050.17	$20,090.44	$61,441.60	$119,699.01	$6,000.00	$125,699.01
502	$163,235.54	$20,288.20	$54,652.51	$128,871.23	$6,000.00	$134,871.23
503	$155,023.20	$23,277.97	$31,168.19	$147,132.98	$6,000.00	$153,132.98
504	$13,833.12	$64.99	$14,833.12	($935.01)	$6,000.00	$5,064.99
505	$171,428.53	$48,035.66	$22,377.37	$197,086.82	$6,000.00	$203,086.82
506	$146,298.03	$7,974.79	$108,022.09	$46,250.73	$6,000.00	$52,250.73
507	$156,888.64	$19,571.04	$44,252.59	$132,207.09	$6,000.00	$138,207.09
508	$165,165.37	$28,968.46	$21,567.87	$172,565.96	$6,000.00	$178,565.96
601	$173,211.11	$51,394.51	$23,497.83	$201,107.79	$6,000.00	$207,107.79
602	$170,567.55	$20,282.61	$55,143.39	$135,706.77	$6,000.00	$141,706.77
603	$188,245.11	$69,885.10	$5,124.14	$253,006.07	$6,000.00	$259,006.07
604	$133,877.45	$17,042.15	$45,988.00	$104,931.60	$6,000.00	$110,931.60
605	$152,175.27	$17,419.28	$67,328.75	$102,265.80	$6,000.00	$108,265.80
606	$167,242.42	$25,359.47	$46,500.48	$146,101.41	$6,000.00	$152,101.41
607	$233,394.77	$27,254.75	$124,196.82	$136,452.70	$6,000.00	$142,452.70
608	$160,006.88	$5,528.41	$136,562.41	$28,972.88	$6,000.00	$34,972.88
701	$169,625.76	$28,117.98	$32,193.84	$165,549.90	$6,000.00	$171,549.90
702	$159,651.98	$20,369.61	$50,859.56	$129,162.03	$6,000.00	$135,162.03
703	$164,213.30	$23,254.89	$48,892.92	$138,575.27	$6,000.00	$144,575.27
704	$131,359.18	$16,514.06	$39,776.19	$108,097.05	$6,000.00	$114,097.05
705	$157,858.69	$25,282.02	$45,354.17	$137,786.54	$6,000.00	$143,786.54
706	$166,065.50	$26,092.49	$32,613.31	$159,544.68	$6,000.00	$165,544.68
707	$139,495.22	$15,044.08	$55,097.93	$99,441.37	$6,000.00	$105,441.37
708	$161,876.08	$20,529.58	$44,216.56	$138,189.10	$6,000.00	$144,189.10
801	$157,870.61	$19,746.93	$69,618.79	$107,998.75	$6,000.00	$113,998.75
802	$144,118.73	$19,042.30	$31,153.32	$132,007.71	$6,000.00	$138,007.71
803	$157,355.69	$21,284.14	$44,265.94	$134,373.89	$6,000.00	$140,373.89
804	$134,153.20	$21,883.74	$32,279.98	$123,756.96	$6,000.00	$129,756.96
805	$148,775.16	$22,580.13	$54,275.88	$117,079.41	$6,000.00	$123,079.41
806	$146,149.77	$14,403.64	$66,059.57	$94,493.84	$6,000.00	$100,493.84
807	$152,842.39	$20,811.95	$60,588.65	$113,065.69	$6,000.00	$119,065.69
901	$141,940.40	$5,907.16	$126,313.46	$21,534.10	$6,000.00	$27,534.10
902	$164,145.30	$21,670.91	$46,198.20	$139,618.01	$6,000.00	$145,618.01
903	$153,511.30	$18,766.45	$43,432.22	$128,845.53	$6,000.00	$134,845.53
904	$143,129.87	$22,057.85	$46,340.38	$118,847.34	$6,000.00	$124,847.34
906	$156,671.74	$26,097.55	$30,869.86	$151,899.43	$6,000.00	$157,899.43
907	$155,185.01	$19,959.45	$38,989.43	$136,155.03	$6,000.00	$142,155.03
908	$132,448.32	$12,554.26	$36,673.89	$108,328.69	$6,000.00	$114,328.69
1001	$160,151.76	$24,155.95	$32,919.88	$151,387.83	$6,000.00	$157,387.83
1002	$159,005.50	$18,768.03	$56,684.89	$121,088.64	$6,000.00	$127,088.64
1003	$151,797.89	$24,860.90	$26,036.21	$150,622.58	$6,000.00	$156,622.58
1005	$158,328.52	$19,876.63	$44,212.67	$133,992.48	$6,000.00	$139,992.48
1006	$154,521.31	$18,849.86	$53,839.41	$119,531.76	$6,000.00	$125,531.76
1007	$159,121.97	$20,679.81	$56,246.20	$123,555.58	$6,000.00	$129,555.58
1008	$169,500.97	$20,073.68	$63,961.53	$125,613.12	$6,000.00	$131,613.12
1101	$181,696.38	$34,854.32	$38,397.13	$178,153.57	$6,000.00	$184,153.57
1102	$147,779.24	$14,368.14	$65,436.76	$96,710.62	$6,000.00	$102,710.62
1103	$151,415.72	$20,298.71	$34,552.86	$137,161.57	$6,000.00	$143,161.57
1104	$146,495.28	$17,538.82	$61,746.44	$102,287.66	$6,000.00	$108,287.66

SUMMARY OF SHARED COSTS DUE FOR HU ASSESSMENTS

1105	$162,984.68	$22,371.22	$44,472.15	$140,883.75	$6,000.00	$146,883.75
1106	$120,515.29	$19,954.43	$12,455.30	$128,014.42	$6,000.00	$134,014.42
1107	$130,565.98	$24,614.66	$7,930.68	$147,249.96	$6,000.00	$153,249.96
1108	$138,133.34	$15,704.32	$39,902.46	$113,935.20	$6,000.00	$119,935.20
1202	$165,730.45	$21,522.05	$52,254.54	$134,997.96	$6,000.00	$140,997.96
1203	$162,006.97	$25,101.16	$32,418.49	$154,689.64	$6,000.00	$160,689.64
1204	$138,399.55	$21,282.59	$30,943.80	$128,738.34	$6,000.00	$134,738.34
1205	$121,826.71	$21,172.49	$0.00	$142,999.20	$6,000.00	$148,999.20
1206	$141,865.26	$14,969.25	$57,736.98	$99,097.53	$6,000.00	$105,097.53
1207	$133,886.38	$17,341.26	$27,901.23	$123,326.41	$6,000.00	$129,326.41
1208	$173,853.90	$28,041.54	$44,366.87	$157,528.57	$6,000.00	$163,528.57
1401	$166,651.42	$25,432.61	$49,899.40	$142,184.63	$6,000.00	$148,184.63
1402	$117,930.63	$18,895.72	$0.00	$136,826.35	$6,000.00	$142,826.35
1403	$300,067.94	$37,669.23	$100,173.85	$237,563.32	$6,000.00	$243,563.32
1405	$159,424.27	$18,192.85	$61,841.27	$115,775.85	$6,000.00	$121,775.85
1407	$181,428.75	$46,099.02	$43,881.53	$183,646.24	$6,000.00	$189,646.24
1408	$166,720.36	$20,768.83	$61,335.13	$126,154.06	$6,000.00	$132,154.06
1501	$167,531.05	$19,892.70	$65,042.47	$122,381.28	$6,000.00	$128,381.28
1502	$151,381.79	$17,481.04	$47,813.21	$121,049.62	$6,000.00	$127,049.62
1503	$295,199.22	$49,250.98	$54,537.87	$289,912.33	$6,000.00	$295,912.33
1505	$149,160.94	$17,137.59	$51,259.44	$115,039.09	$6,000.00	$121,039.09
1507	$154,863.75	$18,572.67	$52,770.81	$120,665.61	$6,000.00	$126,665.61
1605	$126,863.73	$18,317.54	$29,608.23	$115,573.04	$6,000.00	$121,573.04
1606	$151,918.69	$36,064.75	$30,311.80	$157,671.64	$6,000.00	$163,671.64
1607	$159,665.56	$26,059.94	$39,814.34	$145,911.16	$6,000.00	$151,911.16
1608	$116,705.33	$19,004.51	$4,004.50	$131,705.34	$6,000.00	$137,705.34
CU1	$660,917.59	$146,982.94	$143,596.11	$664,304.42	$6,000.00	$670,304.42
CU2	$579,394.25	$128,974.05	$124,527.82	$583,840.48	$6,000.00	$589,840.48
CU3	$268,818.63	$59,792.16	$56,908.68	$271,702.11	$6,000.00	$277,702.11
CU4	$324,139.30	$60,594.87	$53,539.87	$331,194.30	$6,000.00	$337,194.30
	$13,578,452.61	$2,095,992.82	$3,894,004.02	$11,780,441.41	$474,000.00	$12,254,441.41