

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Raymond P. Moore**

Civil Action No. 19-cv-02594-RM-SKC

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MEDIATRIX CAPITAL INC., et al.,

Defendants,

And

MEDIATRIX CAPITAL FUND LTD., et al.,

Relief Defendants.

**ORDER GRANTING UNOPPOSED MOTION FOR ORDER APPROVING AND
CONFIRMING SALE OF REAL PROPERTY COMMONLY KNOWN AS 1201 LLOYDS
ROAD, OAK POINT, TEXAS AND APPROVING PUBLICATION AND OVERBID
PROCEDURES**

The Court, having read and considered the Unopposed Motion for Order Approving and Confirming Sale of Real Property Commonly Known as 1201 Lloyds Road, Oak Point, Texas and Approving Publication and Overbid Procedures (“Motion”) brought by Receiver, Brick Kane of Robb Evans & Associates LLC (“Receiver”) and all pleadings and evidence filed in support thereof, and there being no opposition to the Motion, the Court finding that this is an arm’s length transaction and the purchase price is fair and reasonable, and good cause appearing therefore, it is

ORDERED that:

1. The Motion and all relief sought therein is granted in its entirety.

2. The Receiver is authorized to sell the real property commonly known as 1201 Lloyds Road, Oak Point, Texas, being approximately 19.46 acres in Oak Point ETJ, Texas, and legally described on Exhibit 1, attached hereto (the “Property”), and discharge the proceeds in accordance with applicable law and the orders of this Court, including without limitation this Order. The sale of this Property is hereby confirmed under Title 28 U.S.C. §2001(b).

3. The Receiver is authorized to complete the sale on an “as is” basis as more fully described in the sale contract documents by private sale to either (a) YingLam Yip and Monica YuenWah Chan, or their assignees (collectively, “Proposed Buyer”), an arm’s length buyer, at a purchase price of \$3,550,000, pursuant to the One to Four Family Residential Contract (Resale), together with the various informational attachments, Amendment, Addendum, Maintenance Agreement, Agricultural Land Lease and Pollinator Agreement (collectively, the “Proposed Sale Contract”), and subject to the side letter agreement amending the Agricultural Land Lease (“Side Letter”), which together with the Proposed Sale Contract are collectively attached as Exhibit 2 to the Declaration of Kenton Johnson (“Johnson Declaration”) which was filed in support of the Motion; or (b) to such higher qualified arm’s length overbidder who hereafter submits the highest qualified overbid at a subsequent overbid session to be conducted under the terms and conditions more fully set forth herein. The sale of the Property is hereby authorized subject to the following overbid procedures, terms and conditions:

A. The overbid session shall be conducted within 25 days of the date of entry of this Order. The overbid session shall be conducted at the offices of ACR Realty, Inc. (“ACR Realty”), 2220 Coit Road, Suite 360, Plano, Texas 75075.

B. The Receiver shall cause to be published a notice of the proposed sale of the Property to the Proposed Buyer or a qualified bidder at the overbid session to be conducted as set forth in the prior paragraph, which notice shall state the date, time and place of the overbid session, the requirement for pre-qualification by overbidders and the terms and conditions of the overbidding and sale of the property, as described below (“Overbid Notice”). The Receiver shall cause the Overbid Notice to be published in the Dallas Morning News two times prior to the date of the overbid session, with the first publication to be at least ten days prior to the date of the overbid session.

C. Any interested party wishing to overbid at the overbid session shall be required to pre-qualify with the Receiver not less than four business days before the overbid session by delivering to the Receiver’s counsel, Barnes & Thornburg LLP, Attention: Gary Owen Caris, at 2029 Century Park East, Suite 300, Los Angeles, California 90067: (a) notice in writing of the prospective overbidder’s intent to overbid; (b) written verification from a financial institution demonstrating to the Receiver’s satisfaction, in his sole and absolute opinion and judgment, the prospective overbidder’s ability to complete and close a purchase of the Property through sufficient funds and/or credit facilities within 20 days of the overbid session; and (c) a cashier’s check in the sum of \$36,500 payable to “SEC v. MEDIATRIX CAPITAL et al Receivership QSF Brick Kane of Robb Evans & Associates LLC, Receiver,” which cashier’s check shall become nonrefundable upon acceptance of the overbidder’s overbid at the conclusion of the overbid session.

D. Overbidders shall be deemed to have completed all inspections of the Property and shall be deemed to have waived and/or removed all contingencies in favor of the Proposed Buyer under the Proposed Sale Contract, including without limitation any contingency

pertaining to inspection of title, and will be required to complete a cash purchase of the Property and close escrow for the purchase of the Property within 20 days of the date of the overbid session. The successful overbidder will be required to execute a purchase agreement for the Property substantially in the form of the Proposed Sale Contract and subject to the Side Letter, together with a waiver of all buyer contingencies promptly after conclusion of the overbid session, and to otherwise generally perform in the manner provided in the Proposed Sale Contract, and shall deposit an additional \$500,000 into escrow within five days after the conclusion of the overbid session.

E. The initial overbid shall be in the amount of \$3,650,000, representing an amount that is \$100,000 higher than the purchase price under the Proposed Sale Contract, and all subsequent overbids shall be in an amount at least \$50,000 higher than the preceding bid.

4. Pursuant to the Proposed Sale Contract and the Receiver's Residential Real Estate Listing Agreement Exclusive Right to Sell ("Listing Agreement") with its broker ACR Realty and agent James Hankins ("Hankins"), a copy of which is attached as Exhibit 3 to the Johnson Declaration, payment of a sales commission in the amount of 6% of the purchase price paid by the Proposed Buyer, or if a higher overbid is received and accepted at the overbid session, by the successful overbidder, shall be paid from the proceeds of the sale at close of escrow, and no other sales commission shall be paid from the proceeds of the sale or shall be paid by or be the responsibility of the Receiver under any circumstances.

5. The sale of the Property by private sale to the Proposed Buyer under the Proposed Sale Contract, or to the highest qualified overbidder at the overbid session pursuant to the procedures set forth herein, shall and is hereby deemed confirmed by this Order without further

notice, hearing or additional order, and without the necessity of any subsequent motion for confirmation of the sale.

6. The Receiver is authorized to execute all documents and instruments necessary or appropriate to complete, implement, effectuate and close the sale of the Property to the Proposed Buyer or to the highest qualified overbidder, including but not limited to the deed conveying title to the Property as provided herein.

7. The Receiver is authorized to permit and/or cause to be paid from the proceeds of sale all ordinary and customary closing costs, all costs and expenses required to be paid pursuant to the terms of the Proposed Sale Contract by the Receiver from the proceeds of sale, the sales commission described above at paragraph 4 and all real property tax liens and prorated real property taxes due up to the date of closing.

8. All net proceeds from the sale of the Property, after payment of the valid liens and encumbrances and costs of sale as set forth in the prior paragraph, shall be paid to the Receiver on behalf of the receivership estate.

9. The sale of the Property to the Proposed Buyer or any successful overbidder is being sold in an “as is” condition, without any warranties or representations, with all faults known and unknown, as more particularly set forth in the Proposed Sale Contract.

10. A sale to the Proposed Buyer or to any successful overbidder is an arm’s length transaction and the purchase price is fair and reasonable.

11. Any licensed title insurer, the Proposed Buyer and any successful overbidder may rely on this Order as authorizing the Receiver to transfer legal title to the Property free and clear of all liens and encumbrances.

DATED this 6th day of August, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Raymond P. Moore", written over a horizontal line.

RAYMOND P. MOORE
United States District Judge