

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

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In re:

CBRM REALTY INC.,

Debtor.¹

Chapter 11

Case No. 25-15343 (MBK)
(Jointly Administered)

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: CBRM Realty Inc. (2420), Crown Capital Holdings LLC (1411), Kelly Hamilton Apts LLC (1115), Kelly Hamilton Apts MM LLC (0765), RH Chenault Creek LLC (8987), RH Copper Creek LLC (0874), RH Lakewind East LLC (6963), RH Windrun LLC (0122), RH New Orleans Holdings LLC (7528), and RH New Orleans Holdings MM LLC (1951). The location of the Debtors' service address in these chapter 11 cases is: In re CBRM Realty Inc., et al., c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020.



**DECLARATION OF MATTHEW DUNDON
IN SUPPORT OF THE DEBTORS' MOTION FOR
ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS
TO OBTAIN POSTPETITION FINANCING, (II) GRANTING LIENS AND
SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) MODIFYING THE
AUTOMATIC STAY, AND (IV) GRANTING RELATED RELIEF**

I, Matthew Dundon, pursuant to 28 U.S.C. § 1746, declare as follows under penalty of perjury:

1. I am a Principal of IslandDundon LLC (“**IslandDundon**”). IslandDundon has been engaged by the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) and will soon file an application to be retained as financial advisor to the Debtors. In this capacity, I am generally familiar with the Debtors’ day-to-day operations, business and financial affairs, books and records, and restructuring efforts.

2. I submit this declaration (this “**Declaration**”) in support of the *Debtors’ Motion for Entry of an Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* [Docket No. 61] (the “**Motion**”).² The Motion seeks approval of two debtor-in-possession financing facilities offered by their prepetition lenders and principally secured by the assets of two separate silos of the Debtors: (i) the Kelly Hamilton DIP Facility in a principal amount of up to \$9,705,162 comprised of one or more new term loans and (ii) the NOLA DIP Facility in the aggregate principal amount of up to \$17,422,728 comprised of (a) one or more new term loans and (b) a roll-up of the lenders’ prepetition loans. Upon entry of the Kelly Hamilton Interim Order, the Kelly Hamilton DIP Loan Parties³ may draw the Kelly Hamilton DIP

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the *Declaration of Matthew Dundon, Principal of IslandDundon LLC, in Support of Debtors’ Chapter 11 Petitions and First Day Pleadings* [Docket No. 44] (the “**First Day Declaration**”), as applicable.

³ “**Kelly Hamilton DIP Loan Parties**” means Kelly Hamilton Apts, LLC, Kelly Hamilton Apts MM LLC, CBRM Realty Inc., and Crown Capital Holdings, LLC.

Facility in full. Likewise, upon entry of the NOLA Interim Order, the Debtor Borrowers⁴ may draw \$4,960,725 in new money under the NOLA DIP Facility. Following entry of the Final Orders, the Debtor Borrowers may draw the remaining \$3,500,799 in new money under the NOLA DIP Facility.⁵

3. Except as otherwise indicated, all statements in this Declaration are based on (a) my personal knowledge of the Debtors' operations and finances, (b) my review of relevant documents, (c) information provided to me by IslandDundon employees working under my supervision, (d) information provided to me by, or discussions with, the members of the Debtors' management team or their other advisors, and (e) my opinion based on my experience as a restructuring professional.

4. I am authorized to submit this Declaration on behalf of the Debtors and, if called to testify, I could and would testify to each of the facts set forth herein on the foregoing bases.

5. I am not being compensated specifically for this testimony, although IslandDundon is expected to be compensated for its work as the Debtors' proposed financial advisor in these chapter 11 cases pursuant to a retention application to be filed in due course.

Qualifications

6. I have been a principal IslandDundon and its predecessor joint venture vehicles between Dundon Advisers LLC ("**Dundon**") and Island Capital Group LLC ("**Island**") since 2019, and principal of Dundon since 2016. IslandDundon provides real estate-related restructuring advice to debtors and creditors. Dundon provides financial restructuring and asset management

⁴ "**Debtor Borrowers**" means RH Chenault Creek LLC, RH Windrun LLC, RH Copper Creek LLC, RH Lakewind East LLC, and Crown Capital Holdings, LLC.

⁵ A summary of the material terms of the proposed DIP Facilities is included in the Motion. The summaries contained in this Declaration and the Motion are qualified in their entirety by the provisions of the documents referenced.

and places loans and other non-securities financings on the primary and secondary markets. Island invests in real estate transactions and holds interests in real estate services concerns. I previously worked as a credit hedge fund portfolio manager (2010 to 2016), an institutional brokerage fixed income analyst and head of research (2003 to 2010), and a securities and leveraged finance attorney (1998 to 2003).

7. I received a Juris Doctor from the University of Chicago Law School and a Bachelor of Arts from the University of California at Berkeley. My testimony and declarations in relation to complex chapter 11 matters are regularly accepted by Bankruptcy Courts in this and many other Districts.

The Proposed DIP Facilities

8. The Kelly Hamilton DIP Facility includes a lending commitment from Lynd Living and 3650 REIT in a principal amount of up to \$9,705,162, comprised of one or more new term loans. The NOLA DIP Facility includes a lending commitment from DH1, CKD and CKD Penn in the aggregate principal amount of up to \$17,422,728, comprised of (a) one or more new term loans and (b) a roll-up of the Prepetition DH1 Loans and the Prepetition CKD Loans.

9. The terms of the DIP Facilities are described in greater detail in the Motion, and include the following:

- a. ***Kelly Hamilton DIP Facility.*** Following entry of the Kelly Hamilton Interim Order, the Kelly Hamilton Loan Parties may draw the \$9,705,162 in new money under the Kelly Hamilton DIP Facility.
- b. ***NOLA DIP Facility.*** Following entry of the NOLA Interim Order, the Debtor Borrowers may draw \$4,060,725 in new money under the NOLA DIP Facility. Following entry of the Final Orders, the Debtor Borrowers may draw the remaining \$4,400,799 in new money under the NOLA DIP Facility. Prepetition secured claims of the NOLA DIP Lender will be rolled up concurrently with the funding of new money loans—e.g., \$4,060,725 will be rolled up after entry of the NOLA Interim Order and funding, and \$4,900,479 will be rolled up after entry of the NOLA Final Order and funding.

- c. **Interest Rates.** The Kelly Hamilton DIP Facility accrues interest at 16% (10% payable in cash and 6% payable in kind (“PIK”)). The NOLA DIP Facility accrues interest at 18%, with the new money commitments accruing at 12% payable in cash and 6% PIK, and the roll-up loans accruing at 6% payable in cash and 12% PIK.
- d. **Litigation Trust and Investigation Budget.** All borrowings and disbursements will be made consistent with an approved budget. That budget provides, among other things, for over \$1.44 million in proceeds from the DIP Facilities to be used to fund a litigation trust (or similar post-confirmation entity) to investigate and prosecute claims against the Debtors’ insiders and other parties for the benefit of the Debtors’ general unsecured creditors.
- e. **Priming Liens.** The DIP Lenders will receive priming liens and superpriority claims for repayment of all amounts owed under the DIP Facilities.
- f. **Adequate Protection for Prepetition Lenders.** Certain prepetition secured lenders, including CIF and CKD Penn, are granted adequate protection in the form of replacement liens and superpriority claims to the extent their collateral is being used or primed by the DIP Facilities.
- g. **Fees.** The Debtors have agreed to pay (i) an Origination Fee of 3.0% of the DIP Facilities, (ii) a nominal servicing fee of \$7,500 per month for the Kelly Hamilton DIP Facility, and (iii) a nominal servicing fee of \$1,000 per month for the NOLA DIP Facility.

10. The proceeds of the DIP Facilities will enable the Debtors to repay the existing mortgage indebtedness of the Kelly Hamilton Debtor and facilitate the rehabilitation of their affordable housing assets in Louisiana and Pennsylvania. Additionally, approximately \$1.2 million of the proceeds of the DIP Facilities will be reserved to fund the costs of the investigation, development, and prosecution of valuable claims and causes of action against certain of the Debtors’ insiders, including Silber and Schulman, and other parties for the benefit of the Debtors’ unsecured creditors.

11. Pursuant to certain milestones in connection with the DIP Facilities, the Debtors intend to conduct a postpetition marketing process to solicit sale, financing, and plan sponsor proposals for both the Kelly Hamilton Debtor and the NOLA Debtors, which will culminate in an

auction to be held during these chapter 11 cases. The process is designed to facilitate a value-maximizing outcome.

The Debtors' Need for Postpetition Financing

12. The Debtors have an immediate need to access the funds provided by the DIP Facilities. Information regarding the Debtors' cash needs leading up to the Petition Date and the need for the relief requested in the Motion is addressed in the First Day Declaration. As further described in the First Day Declaration and the Motion, given the Debtors' unsustainable liquidity challenges, the Debtors require immediate access to proceeds under the proposed DIP Facilities to support the orderly continuation and operation of their businesses, satisfy payroll obligations, fund the administrative costs of these chapter 11 cases, make necessary capital expenditures to preserve the value of the Debtors' assets (and secured creditors' collateral), and provide the Debtors runway to consummate a restructuring or sale transaction for the benefit of all stakeholders.

13. Prior to the Petition Date, IslandDundon, together with the Debtors' attorneys, undertook a detailed analysis of the Debtors' operations and funding needs. From this review and analysis, it became clear that the Debtors would require an infusion of capital to allow the Debtors to continue their operations and fund the administrative costs of these chapter 11 cases while working with their advisors and key stakeholders to maximize the value of their estates.

The Debtors' Efforts to Obtain Postpetition Financing

14. Prior to the Petition Date, the Debtors' efforts to refinance and restructure their capital structure were severely impaired by the prosecution of Mark Silber and the nature of the allegations against him. The Debtors, with the assistance of IslandDundon and Lynd Living, engaged with numerous parties regarding potential financing initiatives. These efforts were unsuccessful, and the Debtors determined that financing outside of a court-supervised restructuring

process was not feasible. In conjunction with that determination, the Debtors began to engage with Lynd Living and 3650 REIT regarding a potential debtor-in-possession financing facility secured by the Kelly Hamilton Debtor's assets (the "**Original Kelly Hamilton DIP Proposal**"). At the same time, the Debtors also began to engage with a Noteholder regarding a potential financing facility secured by the assets of both the Kelly Hamilton Debtor and the NOLA Debtors (the "**Noteholder DIP Proposal**").

15. In conjunction with the commencement of these cases, the Debtors determined that the Noteholder DIP Proposal was superior to the Original Kelly Hamilton DIP Proposal, as it (1) provided financing for both the NOLA Debtors and the Kelly Hamilton Debtor; (2) committed significant start up capital for a litigation trust; and (3) had the support of certain Noteholders. However, the Noteholder DIP Proposal also contemplated a non-consensual priming lien on all of the NOLA Debtors' prepetition funded debt creditors, the approval of which would have required the Debtors to engage in costly, distracting litigation.

16. In the following days, as the Debtors sought to finish documenting the Noteholder DIP Proposal, the Debtors recommenced discussions with Lynd Living and 3650 REIT regarding a revised financing proposal for the Kelly Hamilton Debtor. The Debtors also received unsolicited outreach from prepetition lender DH1 regarding its interest in providing a consensual DIP facility secured by the NOLA Debtors' assets.

17. The Debtors were then faced with three potential paths forward: (a) obtain financing on a consensual basis from the Debtors' existing senior secured lenders, which would provide capital and minimize the risk of costly litigation with a contested DIP approval hearing; (b) obtain financing on a non-consensual priming basis from the Noteholder, which would have provided capital for the business and significant funding for a future litigation trust but would have

involved a costly priming battle with DH1, CKD Funding, and CKD Penn in their capacities as prepetition lenders to the NOLA Debtors; or (c) liquidate and provide little, if any, recovery to creditors through the Debtors' operating and litigation assets. The inadvisability of a low-to-no recovery liquidation speaks for itself, and I did not believe the Debtors should take on the expense, uncertainty, and potential delay a priming fight such as accepting the Noteholder DIP Proposal would likely impose when the Debtors had in hand the reasonable alternatives for which they now seek approval.

18. Following extensive dialogue between the Debtors, the steering committee of Noteholders, and the proposed DIP financing providers, the Debtors finalized terms with both Lynd Living and 3650 REIT and DH1, culminating in the DIP Facilities.

The Proposed DIP Facilities Were Negotiated At Arm's-Length

19. The Debtors negotiated the DIP Facilities and DIP Documents with the DIP Lenders in good faith, at arm's length, and with the assistance of their respective advisors. I believe that the Debtors have obtained the best financing available under the circumstances.

20. The fees to be paid under the proposed DIP Facilities, as summarized above and as set forth in more detail in the Motion, are an integral component of the overall terms of the DIP Facilities, were required by the DIP Secured Parties as consideration for the extension of postpetition financing, and are consistent with the market.

The DIP Facilities Are the Best Postpetition Financing Arrangements Currently Available to the Debtors

21. Based on my experience with DIP financing transactions, as well as my involvement in the efforts to secure postpetition financing for the Debtors, the proposed DIP Facilities are fair, reasonable, and adequate under the circumstances. I believe that the DIP

Facilities are the best financing opportunities currently available to the Debtors under the facts and circumstances of these chapter 11 cases.

22. The DIP Facilities are expected to provide the Debtors with the liquidity necessary to preserve the Debtors' estates. The DIP Facilities have been sized to provide the Debtors with liquidity to continue the operation of their businesses, including their properties, fund necessary capital expenditures, satisfy their obligations to tenants and the federal government, pay wage and salary obligations for their employees, and continue to satisfy other working capital and operational needs during these chapter 11 cases. The DIP Facilities will also send a clear message to tenants and vendors that these chapter 11 cases and the events leading to these chapter 11 cases (including the misconduct of the Debtors' prepetition insiders) will not impair the Debtors' go-forward operations.

23. The terms of the DIP Facilities are the result of the negotiations and DIP solicitation process described above. As previously noted, the Debtors, with the assistance of their advisors, solicited and considered other sources of postpetition financing to determine whether the Debtors could obtain such postpetition financing on better terms. However, the Debtors did not receive any alternative proposals with superior terms.

24. I believe that the Debtors' decision to enter into the DIP Facilities is a sound exercise of the Debtors' business judgment. Given the Debtors' significant liquidity constraints, obligations to tenants, vendors, and the federal government, and – most critically – the lack of any alternative financing proposals on superior terms, I believe entry into the DIP Facilities is essential to the Debtors' restructuring efforts.

Conclusion

25. In sum, for the reasons stated above and based on my experience, it is my professional opinion that the terms of the DIP Facilities are reasonable under the current circumstances and market conditions, and were the product of good faith, arm's-length negotiations, and that the DIP Facilities will benefit all stakeholders in these chapter 11 cases.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: June 16, 2025

Respectfully submitted,

/s/ Matthew Dundon

Name: Matthew Dundon

Title: Principal

IslandDundon LLC