

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

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*Counsel to Cleveland International Fund – NRP
West Edge, Ltd.*

In re:

CBRM Realty Inc., et al.,

Debtors.¹

Chapter 11

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

**OBJECTION OF CLEVELAND INTERNATIONAL FUND – NRP WEST
EDGE, LTD. TO 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**

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 A



Cleveland International Fund – NRP West Edge, Ltd., (“CIF”), by and through its undersigned counsel, hereby files its objection (the “**Objection**”) to 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 (the “**DIP Motion**”).

CIF objects to the DIP Motion to the extent it relates to the NOLA DIP Facility, Debtor RH Lakewind East LLC (“**Lakewind**”), and real property owned by Lakewind.² In support of its Objection, CIF respectfully states as follows³:

PRELIMINARY STATEMENT

1. It is sadly common for bankruptcy judges to hear intemperate accusations that an interested party to a bankruptcy matter is a crook. Unfortunately, this is a case where that allegation is literally true. Moshe “Mark” Silber, principal of the Debtors, is a convicted fraudster, having pled guilty in federal court on July 9, 2024 to one count of conspiracy to commit wire fraud affecting a financial institution in connection with a series of questionable real estate transactions. Silber owned or controlled the Debtor entities.

2. The DIP financing at issue here is being proposed by two lenders whose connections to Silber are unclear, but at least one of them was formed just one day before Silber’s guilty plea, in order to make loans to some of the Silber-owned Debtors.

3. While the entire transactions bear indicia of possible fraud, CIF -- a legitimate lender with no ties to Silber -- confines its objections to one specific aspect of the proposed DIP transaction. The assets and cash flow of a possibly financially solvent entity that was never

² Capitalized terms used herein and not otherwise defined herein have the meanings ascribed to such terms in the Motion.

³ CIF incorporates by reference herein the Objection of Cleveland International Fund – NRP West Edge, Ltd. to 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].

properly placed into bankruptcy at all – Lakewind -- are proposed collateral for the DIP financing. Indeed, the \$50 million mortgage that the lenders say they were granted was put in place to secure the obligations of third parties. No loans were apparently made to Lakewind, yet it is being called upon to act as surety -- indeed, the cash cow -- for a debt it never incurred.

The 2023 Loan From CIF to Laguna

4. By way of background, CIF is a private equity fund that provides financing to, among others, owners and operators of multi-unit residential developments.

5. In April 2023, Lakewind’s sole member, Laguna Reserve Apts Investor LLC (“Laguna”), borrowed money from CIF pursuant to a Credit Agreement, dated April 25, 2023, by and between Laguna, as borrower, and CIF, as lender (the “Credit Agreement”).⁴ A copy of the Credit Agreement is attached as Exhibit A to the accompanying Declaration of Stephen Strnisha in Support of the Objection of Cleveland International Fund – NRP West Edge Ltd. to 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 (the “Strnisha Declaration”).

6. Under the Credit Agreement, CIF advanced \$4.5 million to Laguna which was immediately contributed to Lakewind. Indeed, CIF wired the loan proceeds directly to Lakewind. Lakewind is the owner of real property located at 5131 Bundy Road in New Orleans, Louisiana (the “**Property**”). At the time that the parties entered into the Credit Agreement, the Property was not encumbered by any mortgages and could not be so encumbered absent CIF’s consent.

⁴ Notably, the organization chart annexed as Exhibit A to the Declaration of Matthew Dundon, Principal of IslandDundon LLC, in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings [Docket No. 44], showing RH New Orleans Holdings LLC as Lakewind’s sole member, is outdated. Laguna has been Lakewind’s sole member since April 2023. A copy of the correct organization chart is attached as Exhibit B to the Strnisha Declaration.

7. Specifically, pursuant to and in connection with the Credit Agreement, Laguna's class A member Crown Capital Holdings LLC ("CCH") and CIF, as Laguna's class B member, executed the Operating Agreement of Laguna Reserve Apts Investor LLC (the "Laguna Operating Agreement") dated April 25, 2023. A copy of the Laguna Operating Agreement is attached as Exhibit C to the Strnisha Declaration.

8. As the sole member of Lakewind, Laguna also executed the Amended and Restated Operating Agreement of RH Lakewind East LLC (the "Lakewind Operating Agreement") dated April 25, 2023. *Among other things, the Credit Agreement and the Laguna Operating Agreement provide that the Property may not be encumbered by any mortgages or other liens, absent the consent of CIF as Class B Member of Laguna. See Credit Agreement, sections 3.5, 5.1, 5.3, 5.13, 7.3; Laguna Operating Agreement, Section 4.1 and Schedule 4.1(d).* A copy of the Lakewind Operating Agreement is attached as Exhibit D to the Strnisha Declaration.

Siber Requests Consent to A Third Party Mortgage

9. In March, 2024, Silber, as the authorized representative of Laguna, requested CIF, as class B Member of Laguna, to consent to proposed financing for Lakewind to be secured by a mortgage on the Property. CIF declined to consent to that financing because of its terms. Silber did not seek any further consent from CIF for financing Lakewind.

Laguna Defaults on the CIF Loan

10. Prior to December 2024, Laguna defaulted under the Credit Agreement with CIF as a result of, among other things, the appointment of the Independent Fiduciary, failure to provide notice to CIF regarding this supposed appointment, and the changes in financial circumstance that led to the ostensible appointment. CIF, however, agreed to forbear from exercising its default remedies against Laguna.

11. In exchange for such forbearance, Laguna caused Lakewind to grant CIF a mortgage on the Property, which was duly recorded on December 13, 2024 (the “Mortgage”), together with an assignment of rents and other assets related to the Property, to secure Laguna’s obligations under the Credit Agreement. A copy of the Mortgage is attached as Exhibit E to the Strnisha Declaration.

12. As noted above, the Property had been represented by the Borrower to be free of any encumbrances.

The Existence of Two Previously Undisclosed Mortgages is Revealed

13. Shortly after CIF recorded the Mortgage in December 2024, Lynd Management Group LLC (“Lynd”) told CIF that the underlying Property owned by Lakewind was apparently encumbered by two separate antecedent mortgages, which were granted without Laguna’s authority and without CIF’s consent (together, the “CKD Mortgages”). Copies of the CKD Mortgages are attached as Composite Exhibit F to the Strnisha Declaration.

- The first CKD mortgage allegedly secures the sum of \$10 million and the second CKD mortgage allegedly secures the sum of \$50 million.
- The CKD Mortgages are purportedly held by CKD Funding LLC (“CKD Funding”) and CKD Investor Penn LLC (“CKD Investor”).
- As is more fully set forth below, the mortgage allegedly in favor of CKD Funding states that it is given as collateral for loans made to Lakewind “or” other entities. The mortgage allegedly in favor of CKD Penn recites that it is given as collateral for loans solely made to other entities, not Lakewind.
- *Both of those ostensible mortgage holders – CK Funding and CKD Investor (together, “CKD”) -- are among the proposed DIP Lenders subject to the Debtor’s motion to approve DIP financing.*

The Revelation of the Mortgages

14. CIF was surprised to learn about the CKD Mortgages.

15. *First*, under the Credit Agreement (which predated the Mortgage), Laguna, as sole manager of Lakewind, was and is prohibited from permitting Lakewind to incur additional debt without CIF's consent (not to be unreasonably withheld). No such consent was sought or obtained to grant the CKD Mortgages, let alone *undisclosed* mortgages.

16. *Second*, Laguna, as sole manager of Lakewind, did not authorize Lakewind to incur debt and grant the CKD Mortgages.

17. *Third*, the property manager for the Property, Lynd, had been providing financial information to CIF regarding the Property, but that financial information that was required to be provided to CIF did not reflect any obligation to CKD until: (a) approximately December 18, 2024, when Lynd first disclosed the CKD Mortgages to CIF, or (b) February 2025, when the purported obligations to CKD were first included in the January 2025 monthly financial information.

18. *Fourth*, having reviewed the CKD Mortgages, it appears from the very face of the documents that the first CKD Mortgage was allegedly granted to secure the obligations of numerous other entities "or" perhaps, Lakewind, and the second CKD Mortgage was allegedly granted solely to secure the obligations of other entities, not Lakewind. Neither of the CKD Mortgages were properly signed or authorized by Lakewind's Manager, Laguna.

The CKD Mortgages are Ultra Vires and Potentially Voidable as Fraudulent Transfers

19. For the foregoing reasons, any debt, obligation or mortgage incurred by Lakewind in favor of CKD is invalid and void as having been procured by an *ultra vires* act and/or as potentially voidable fraudulent transfers.

20. Moreover, the *ultra vires* acts addressed above were accompanied by acts of knowing misrepresentation. In accordance with the Credit Agreement, the property manager of

the Property, Lynd, had been providing CIF and Laguna with financial statements for both Laguna and Lakewind to CIF on monthly basis. *The financial statements following the July 2024 recording of the CKD Mortgages do not show or mention any CKD mortgage on the Property or any debt owing to CKD. The CKD Mortgages and debt first appear on Laguna/Lakewind financial statements for January 2025 and provided to CIF in February 2025, months **after** the Mortgages were recorded during 2024.*

The CKD Mortgages do not Facially Benefit Lakewind and Were Not Properly Approved

21. It must be noted that the CKD Mortgage recorded on July 9, 2024 (the “July CKD Mortgage”) recites that it was granted to secure the Indebtedness up to \$10 million, which is defined as all present and future loans, advances and/or other extensions of credit obtained and/or to be obtained by Lakewind, “RH Copper Creek LLC, RH Windrun LLC or RH Chenault Creek LLC.” July CKD Mortgage, page 1 (emphasis supplied). Thus on its face, the July CKD Mortgage may not be the result of any loan made to Lakewind.

22. Attached to the July CKD Mortgage is a certificate that provides it is executed by Lakewind’s sole member, Laguna, by Crown Capital Holdings, LLC, its alleged sole member. *CCH is not Laguna’s sole member, as the Laguna Operating Agreement demonstrates.* CKD knew or should have known this core fact had it reviewed the Laguna Operating Agreement to verify the authority to grant the Mortgage.

23. Similarly, the CKD Mortgage recorded on August 16, 2024 (the “August CKD Mortgage”) recites that it was purportedly granted by Lakewind, RH Copper Creek LLC, RH Windrun LLC or RH Chenault Creek LLC (*i.e.*, the NOLA Debtors) to secure the Indebtedness, which is defined as all present and future loans, advances and/or other extensions of credit obtained and/or to be obtained by Bedcliff Apts LLC, Bethesda Wilkinsburg Apts LLC, Bethome Apts LLC, Central Hill Apts LLC, Elhome Apts LLC, Hill Com I Apts LLC, Hill Com II Apts LLC and Tribad Apts LLC (collectively, the “Non-Debtor CKD Borrowers”). None of the Non-

Debtor CKD Borrowers are debtors in these jointly administered chapter 11 cases. August CKD Mortgage, page 1.

24. Thus, on its face, the August CKD Mortgage is not to secure any loan made to Lakewind. And, like the July CKD Mortgage, attached to the August CKD Mortgage is a certificate that provides it is executed by Lakewind's sole member, Laguna, by Crown Capital Holdings, LLC, its alleged sole member. *However, CCH is not the sole member of Laguna, and the August CKD Mortgage was not authorized.*

CKD Stalls CIF

25. By letter dated April 8, 2025 to CKD Funding, counsel for Stephen Strnisha,⁵ as the managing member of Laguna, requested documentation to determine the basis of the CKD Mortgages that suddenly appeared on the Lakewind financial statements. A copy of the April 8, 2025 letter is attached as Exhibit G to the Strnisha Declaration. This request followed multiple unsuccessful requests for such information from the property manager, Lynd Management Group LLC. Although Lynd recorded information regarding the CKD funding starting with the January 2025 financials based on information that was not contained in the mortgage documents themselves (e.g., principal amount attributable to Laguna and accrued interest amount) Lynd claimed in its response to CIF's inquiries that they did not possess any materials or information regarding the funding other than the mortgage documents.

26. By letter dated April 16, 2025, counsel for CKD finally responded, essentially refusing to provide any information beyond the recorded and publicly available CKD Mortgages. A copy of the April 16, 2025 letter is attached as Exhibit H to the Strnisha Declaration.

27. It must also be noted that CKD Funding was formed the day of, or the day before, the July CKD Mortgage was recorded, which was also the day before CBRM's notorious former

⁵ Mr. Strnisha, who is a principal of CIF, by this time had been appointed by CIF as manager of Laguna, a remedy expressly provided for pursuant to the Laguna Operating Agreement.

principal, Mark Silber, pleaded guilty to conspiracy to commit wire fraud in connection with real estate loans.

The DIP Financing Proposal Imposes Unwarranted and Unapproved Obligations on Lakewind

28. In the face of these irregularities, the Debtors and CKD now seek to not only validate but, indeed, *elevate* CKD's ostensible loans and the CKD Mortgages, and subjugate Lakewind to substantial additional debt with priority over CIF's claim, to the tune of \$17 million plus substantial interest.

29. In addition, the Debtors and CKD seek to hold Lakewind, the financially healthiest of the four NOLA properties, jointly and severally liable for the entire \$17 million NOLA DIP Facility debt being incurred by the weaker NOLA properties.

30. Given that these chapter 11 cases are *not* substantively consolidated, the effort to make Lakewind jointly and severally liable for loans that will disproportionately benefit the other NOLA properties while saddling Lakewood with liability for the entire \$17 million, is severely prejudicial to Lakewind, its creditors, and its other stakeholders, including its sole member Laguna and CIF, as the secured lender that actually loaned \$4.5 million. Among other things, the financial records of Laguna show large receivables due from other NOLA entities, evidencing that cash had been transferred from Laguna to these entities, as well as to Crown Capital itself. Far from being repaid, these receivables have only grown over the past year. At the same time, Laguna's financial statements confirm that Laguna shows no payables due to these other entities. Copies of the Laguna and Lakewind financial statements are attached as Composite Exhibit I to the Strnisha Declaration. Simply stated, funds have been siphoned off from Laguna on a continuing one-way basis.

31. Even though the multiple CBRM entities that filed bankruptcy are *not* substantively consolidated, the Debtors and CKD seek to hold Lakewind jointly and severally liable for the full \$17 million NOLA DIP Facility without allocation among the NOLA DIP

Borrowers and, particularly, without regard to the amount, if any, that will actually be used by Lakewind and potentially benefit Lakewind and its creditors.

32. In that regard, although none of CKD, the Debtors, nor Lynd Management Group LLC ever provided Laguna or CIF with copies of any underlying CKD financing documents other than the CKD Mortgages themselves, despite repeated requests, it appears (based on the First Day Declaration and the DIP Motion, and the CKD Mortgages themselves), that there are *twelve* CBRM entities that are borrowers under the prepetition CKD financing, *of which eight are not even debtors in this Court, namely, the Non-Debtor CKD Borrowers*.

33. Before Lakewind becomes jointly and severally liable for debt incurred to roll-up that prepetition financing, the Court, creditors, and parties-in-interest should know (a) how much, if any, CKD prepetition financing was actually used by Lakewind, (b) whether Lakewind's incurrence of the CKD prepetition debt was duly authorized – particularly before any of it is repaid by Lakewind as part of the proposed roll-up, (c) what the relationship is among the Non-Debtor CKD Borrowers and the NOLA Debtors, and (d) what the relationship is among CKD Funding, CKD Investor, the other proposed DIP Lender, the Debtors and Silber.

34. Again, because these Debtors are *not* substantively consolidated, Lakewind creditors, including but not limited to CIF, stand to be severely prejudiced if Lakewind incurs liability for repayment of a loan that was used by Debtors other than Lakewind.

CIF Is Not Protected

35. Further, while the Debtors acknowledge the existence of CIF's Mortgage (*see* First Day Declaration, ¶ 20), they propose to grant CKD a lien on the Property that would prime CIF's Mortgage without adequately protecting CIF's interest in the Property.

36. The Debtors argue that continuing to operate the Property together with junior replacement liens and administrative expense claims that are behind CKD's \$17M NOLA DIP Facility somehow protects CIF. It does not.

37. The DIP Motion does not provide analysis of the relative value of the Property vis-à-vis the amount, if any, of CKD prepetition loan that benefited Lakewind, the outstanding debt owed to CIF, and any equity in the Property that might inure to the benefit of unsecured creditors and the estate. Without that analysis, the NOLA DIP Facility cannot and should not be approved.

38. Finally, CIF filed its Motion to Dismiss the Chapter 11 Case of RH Lakewind East LLC on the basis that it was filed without authority under state law, purportedly on authority of an entity that is neither its member nor manager (Docket No. 87). The potential, indeed, likelihood, that Lakewind will not be a Debtor in these cases, renders its incurrence of additional debt under the NOLA DIP Facility a non-starter. Without proper authority to commence its chapter 11 case, Lakewind also lacks authority to be a NOLA DIP Borrower.

39. Indeed, given the relative financial health of Lakewind vis-à-vis the other NOLA properties, it is not a stretch to believe that the Debtors filed Lakewind solely to siphon its positive cash flow to subsidize the other NOLA properties.

OBJECTION

40. The proposed NOLA DIP Facility seeks to dilute CIF's secured interest in the Property behind an additional \$17 million without any, never mind adequate, protection of that interest. The Debtors cite *In re Salem Plaza Assoc.*, 135 B.R. 753, 758 (Bankr. S.D.N.Y. 1992) for the proposition that continued operation of the Property provides adequate protection. But *Salem Properties* involved the use of cash collateral to pay ongoing operating expenses, not a priming DIP loan.

41. The proposed NOLA DIP Facility would put \$17 million ahead of CIF without any protection of CIF's interest as required by section 364(d)(1)(B) of the Bankruptcy Code. And there has been no evidence or other demonstration of the extent, if any, to which Lakewind would be the beneficiary of that \$17 million. Indeed, in light of Lakewind being the financially healthiest of the four NOLA properties, it requires significantly less financing than the other three NOLA properties. But the Debtors do not provide an allocation among the four properties of how and what amount of the proposed NOLA DIP Facility is needed for each of them.

42. The proposed NOLA DIP Facility is also excessive as to Lakewind. For example, Debtors assert that more than \$1 million is owed in property taxes for the NOLA DIP Borrowers. According to records of the City of New Orleans Bureau of Treasury, Lakewind's delinquent tax liability is approximately \$250 thousand.⁶ (Moreover, as noted above, one-way intercorporate transfers siphoned off sums from positive net operating income that could have been used to reduce or eliminate the supposed tax deficiency.) Lakewind and its separate creditors and constituents should not incur such disproportionate joint and several liability for the other NOLA DIP Borrowers when Lakewind's own, separate current obligations are a fraction of the others' obligations.

43. The proposed NOLA DIP Facility seeks to roll up nearly \$9 million of prepetition debt purportedly incurred by the NOLA Debtors, including Lakewind. But Lakewind is and was prohibited under its and its sole member's governing documents to incur such debt. In fact, its sole member, Laguna, did not authorize Lakewind to incur the prepetition CKD debt. That debt is therefore invalid along with the mortgage that secures it. In sum, the proposed NOLA DIP Facility (a) does not provide any, much less adequate, protection of CIF's interest; (b) saddles Lakewind with \$17 million of joint and several liability for the weaker NOLA properties to the severe prejudice of Lakewind, its creditors, and its other stakeholders; (c) rolls up prepetition

⁶ See <https://services.nola.gov/service.aspx?load=treasury&type=1&taxbill=39W016237>.

debt that is (i) invalid as having been incurred without due authorization and (ii) potentially avoidable as fraudulent transfers; and (d) is questionable in light of the likely dismissal of the Lakewind chapter 11 case.

CONCLUSION

WHEREFORE, for the foregoing reasons, CIF respectfully requests that the Court deny interim approval of the NOLA DIP Facility as it relates to Lakewind, and grant such other and further relief as the Court deems just and proper.

Dated: June 18, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Patricia B. Fugée, hereby certifies that on this 18th day of June, 2025, I caused the foregoing Objection and supporting documents to be served by this Court's CM/ECF system.

/s/ Patricia B. Fugée
Patricia B. Fugée (NJ Bar 02317-1990)