

CAUSE NO. D-1-GN-23-003968

G.E.T. MARKETING, LLC,

*Plaintiff,*

v.

PSW REAL ESTATE, LLC

*Defendant.*

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

459th JUDICIAL DISTRICT

**ORDER APPOINTING RECEIVER**

On this day came on to be considered Plaintiff G.E.T. Marketing, LLC’s (“GET”) Emergency Application for Appointment of Receiver (the “Application”) seeking the appointment of a rehabilitative receiver over Defendant PSW Real Estate, LLC and its affiliates listed on **Exhibit A** attached hereto (collectively, “PSW”). After considering Application, the evidence, the arguments of counsel, and all other matters properly before it, the Court, noting PSW does not oppose the appointment of a rehabilitative receiver or the injunctive relief ancillary thereto, hereby finds as follows:

1. PSW possesses significant assets, the value of which should be preserved during the pendency of this litigation.
2. The property of PSW is in danger of being lost, removed, or materially injured.
3. PSW is insolvent.
4. PSW has admitted in writing that the claim of GET is due and owing.
5. The properties of PSW are being misapplied or wasted.
6. The appointment of a receiver is necessary to conserve the property and business of PSW and to avoid damage to interested parties.

7. All other legal and equitable remedies, including the appointment of a receiver for specific property of PSW, are inadequate.

8. PSW is not opposed to the appointment of a receiver in this matter.

9. Stapleton Group, Inc., who is not a party, attorney for a party or other person interested in this action; is authorized to act as receiver; and is registered to transact business in this state, is appropriate and qualified to serve as receiver (“Receiver”).

Accordingly, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

10. Until further order of the Court, Stapleton Group, Inc., is hereby appointed to act and serve as the Court’s appointed Receiver over PSW’s operations and property as set forth below.

11. Receiver is authorized, subject to the control of this Court and the laws regarding receivership, to do any and all acts necessary to the proper and lawful conduct of the receivership. Specifically, the following orders are entered with respect to Receiver:

- (a) To enter, gain access, and take possession of PSW’s business premises located at 900 S. 1st Street, Ste. 110, Austin, Texas 78704, and at any other location from which they may conduct business (collectively, “Business Premises”), to assume and control the operations of PSW and to use reasonable efforts to determine the nature, location, and value of all of the property interests of PSW, including, but not limited to, PSW’s existing and/or after-acquired, tangible and/or intangible property and proceeds thereof, including, but not limited to, accounts, inventory, real property, fixtures, improvements, materials, and equipment thereon, deposit accounts, general intangibles, payment intangibles, instruments, and/or books and records related thereto, of whatever kind, which PSW own, possess, have a beneficial interest in, or control directly or indirectly,

including assets fraudulently transferred by PSW (“Receivership Property” or collectively, the “Receivership Estate”).

- (b) To take any and all actions Receiver deems reasonable and appropriate to prevent waste to the Receivership Property and to preserve, secure and manage, maintain and safeguard the Receivership Property and all forms of property to which the Receiver is entitled to take possession and control under this Order.
- (c) To oversee the reconstruction of the PSW’s books and records in order to support tax and regulatory filings, outside review, and to complete contractually required reporting to various constituencies.
- (d) To make an independent informed evaluation of the businesses and operations (“Operations”) of PSW to determine whether and to what extent, in the Receiver’s discretion, such Operations could and/or should be continued, in whole or in part. In that regard, with respect to any such evaluation by the Receiver and any Operations that may be undertaken:
  - i. Regardless of what the Receiver decides about the continuation of Operations, the Receiver at all times shall continue to have and exercise exclusive control over all of the Receivership Property and Operations, which exclusive control includes, without limitation, the discretion to continue in the employment of PSW, or not, any currently employed officer, director, employee, servant, third party, and/or agent;
  - ii. In the event that Operations continue, but the income from any such Operations and/or from the Receivership Estate is insufficient to meet the normal and ordinary expenses and costs of Operations, the Receiver is authorized to borrow by issuing receiver’s certificates to from, and repay money to, existing

stakeholders/GET (e.g., note holders and Class A), then to JV Partners, then to existing commercial lenders, then to third parties from time-to-time on a revolving basis in the form attached hereto as **Exhibit B** (the “Receiver Certificates”). After any Receiver’s Certificate is issued a copy shall be included in the Receiver’s monthly report.

- iii. Any such Receiver Certificates shall be evidence of protective advances made under, and secured by, the loan documents, and shall constitute a priority lien on the Receivership Property, and shall be paid first from proceeds (to the extent available) existing after payment of expenses authorized by this Order, and if necessary, from proceeds of the sale or refinancing of the Receivership Property. In the Receiver’s discretion, any outstanding Receiver Certificates shall be paid (in whole or in part) as soon as there are sufficient Proceeds to pay them without materially and adversely affecting the Receivership Property or Operations. Such payments may be made on a monthly or other periodic basis. Receiver has authority to issue Receiver Certificates up to a maximum amount of \$8,000,000 without any additional Court approval. Any liability for such borrowings shall solely be the responsibility of PSW, and not the Receiver.
- iv. The Receiver has the full discretion to conclude that further Operations are not necessary or advisable, and take such steps as the Receiver deems necessary or desirable to discontinue any and/or all such Operations. The Receiver shall have the exclusive authority to file bankruptcy for PSW, and neither the current management or equity owners shall have such authority.
- (e) To conduct an orderly marketing and sale of any assets by the Receiver, subject to either further stipulation(s) of the Parties or further order(s) of the Court, if necessary. In connection with the Receiver’s sale of all or part of the assets, the Receiver is authorized to sell Receivership Property to the public “as is” and “with all faults,” without representations or warranties and without recourse, without seeking further Court

approval.

- (f) To take any and all steps necessary to receive, collect, and/or review all mail addressed to PSW, including, but not limited to, mail addressed to each and every one of its Business Premises and any post office boxes held in the name of PSW, and, at the Receiver's discretion, to instruct the U.S. Postmaster to re-route, hold, and/or release said mail to the Receiver. Copies of mail reviewed by the Receiver in the performance of his duties will promptly be made available for inspection to Defendants upon request after review by the Receiver.
- (g) To receive and collect, and/or receive all monies, funds, and/or payments owing to PSW in any manner relating to the Receivership Property, and/or sale of the Receivership Property, as a whole or as the individual improvements are completed, sold and/or lease, to deposit such sums into an account established and maintained by Receiver, and to expend such sums on the Operations in the ordinary course of business.
- (h) To use the taxpayer account number of PSW in connection with the receivership estate, as necessary to perform and/or carry out the Receiver's duties.
- (i) To execute and prepare all documents and to perform all acts, either in the name of PSW, as applicable, or in the Receiver's own name, which are necessary or incidental to preserving, protecting, managing, controlling, and/or selling the Receivership Property.
- (j) To contact each of the accounts receivable debtors of PSW (collectively, "Account Debtors") in order to advise them not to send further accounts receivable payments to PSW and to instruct the Account Debtors to send any and all payments directly to the Receiver.
- (k) To compromise debts of the business and to do all things and to incur the risks and obligations of similar businesses and enterprises. No risk or obligation incurred by the Receiver shall be at the personal risk or obligation of the Receiver, but shall be the risk or obligation of the receivership estate.
- (l) To employ servants, agents, employees, appraisers, guards, clerks, accountants,

attorneys, property managers, brokers, environmental consultants, management consultants and/or other professionals to administer the receivership estate and to protect the Receivership Estate as the Receiver deems necessary; to purchase insurance, materials, supplies, and/or services and to pay therefor at the usual rate and prices out of funds that shall come into his possession; to pay the reasonable value of said services out of the proceeds of the estate; and that no risk or obligation incurred by the Receiver shall be the personal risk or obligation of the Receiver, but shall be the risk or obligation of the Receivership Estate.

- (m) To maintain appropriate property insurance for the Receivership Property and Operations normally obtained in connection with the operation and management of properties and business similar to the Receivership Estate; and be authorized to continue any current policies in place and to purchase further insurance as Receiver deems appropriate. PSW shall notify the Receiver upon the Receiver's taking possession of the Collateral whether or not there is sufficient insurance coverage on the Collateral. If sufficient insurance coverage does exist, PSW shall be responsible and is hereby ordered to name the Receiver as additional insured on such insurance policies for the period that the Receiver shall be in control of the Receivership Estate.
- (n) To prepare periodic interim statements reflecting the Receiver's fees and administrative costs and expenses incurred for said period in the operation and administration of the receivership estate. Upon completion of an interim statement, and the mailing of said statement to the Parties' respective attorneys of record or any other designated personal agent, the Receiver shall pay from the estate funds, if any, the amount of said statement. Despite the periodic statement of Receiver's fees and administrative expenses, such fees and expenses shall be submitted to the Court for its approval and confirmation, in the form of either a noticed interim request for fees or a Receiver's final account and report.

- (o) To institute ancillary proceedings in this State or other states and countries as is necessary to preserve and protect the Receivership Estate. The Receiver may pay for such legal or other professional services from the funds of the Receivership Estate.
- (p) To the extent feasible, the Receiver shall, within 30 days of its qualification hereunder, file in this action an inventory of all property of which it has taken possession pursuant to this Order and shall conduct periodic accountings thereafter;
- (q) The Receiver shall not be obligated to file any federal or state income tax returns, schedules or other forms, which continue to be obligations of PSW;
- (r) The Receiver, or any party to this action, may from time to time, and on due notice to all parties, make application to this Court for further orders instructing said Receiver.
- (s) Except in the event of gross negligence, willful misconduct or actions in violation of orders of the Court, Receiver shall have no personal liability for any obligations incurred in the course of the receivership, and the parties hold Receiver harmless except in connection with any willful misconduct or gross negligence by Receiver.
- (t) The authority granted to Receiver is self-executing.

**IT IS FURTHER ORDERED** that except by leave of this Court, during the pendency of the receivership ordered herein, PSW and all of its customers, principals, investors, collectors, stockholders, lessors, other creditors, judgment holders, and/or other persons seeking to establish or enforce any claim, debt, right, lien, and/or interest against PSW, or any of its subsidiaries or affiliates, and/or all others acting for or on behalf of such persons, attorneys, trustees, agents, sheriffs, constables, marshals, and/or any other officers and their deputies, and their respective attorneys, servants, agents, and/or employees, be and are hereby stayed from:

- (a) Interfering, hindering, and/or molesting in any way whatsoever the Receiver in the performance of the Receiver's duties herein described and in the performance of any duties incident thereto;
- (b) Transferring, directly and/or indirectly, any interest by sale, lease, rental, pledge, grant of security interest, assignment, invoice and/or encumbering in any manner the

Receivership Property, and all proceeds and products thereof;

- (c) Moving the physical location of the construction materials, furniture, fixtures and/or equipment of PSW from any location where it is presently located, and all proceeds and products thereof;
- (d) Transferring, concealing, destroying, defacing and/or altering any of PSW's books and records;
- (e) Diverting in any way any of the proceeds from the accounts receivable and/or inventory;
- (f) Causing any mail to be forwarded to any address other than the post office box or business address supplied by the Receiver; and
- (g) Failing or refusing to immediately turn over to the Receiver all monies, checks, funds and/or proceeds relating to the Receivership Property and/or its improvements, and failing to make available to the Receiver for inspection and copying all non-privileged books and records relating to the Receivership Property.

**IT IS FURTHER ORDERED** that, except by leave of this Court, during the pendency of the receivership ordered herein, PSW and all customers, principals, investors, collectors, stockholders, lessors, and/or other persons seeking to establish or enforce any claim, right, and/or interest against or on behalf of PSW, or any of its subsidiaries or affiliates, and/or all others acting for or on behalf of such persons, including attorneys, trustees, agents, sheriffs, constables, marshals, and/or other officers and their deputies, and their respective attorneys, agents, servants, and/or employees be and are hereby stayed from:

- (a) Commencing, prosecuting, continuing, and/or enforcing any suit or proceeding against PSW, or any of its subsidiaries or affiliates, except as such actions may be filed to toll any applicable statutes of limitations;
- (b) Commencing, prosecuting, continuing and/or entering into any suit or proceeding in the name or on behalf of PSW, or any of its subsidiaries or affiliates, provided, however, that nothing in this Order shall prevent or otherwise enjoin PSW from prosecuting, continuing, and/or entering into any suit or proceeding to preserve, protect, defend,



and/or prosecute its rights as an owner of the Receivership Property, provided further that such shall not interfere with the Receiver's performance of his obligations pursuant to this Order;

- (c) Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, any property of PSW, or any of its subsidiaries or affiliates, or any property claimed by any of them or attempting to foreclose, forfeit, alter, or terminate any of PSW's or any of its subsidiaries' or affiliates' interest in property, including, without limitation, the establishment, granting or perfection of any security interest, whether such acts are part of a judicial proceeding or otherwise;
- (d) Using self-help or executing or issuing, or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wheresoever located, owned by or in the possession of PSW, or any of its subsidiaries or affiliates, or the Receiver appointed pursuant to this Order or any agent appointed by said Receiver; and
- (e) Doing any act or thing whatsoever to interfere with the Receiver taking control, possession or management of the Receivership Property or any other property subject to this receivership, or to in any way interfere with the Receiver, or to harass or interfere with the duties of the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the property and assets of PSW, or their subsidiaries or affiliates. Provided however, nothing in this paragraph shall prohibit any federal or state law enforcement or regulatory authority from commencing or prosecuting an action against PSW, or their subsidiaries or affiliates.

12. To ensure the orderly operation of the receivership and maximize the value of the assets, Receiver shall be compensated as follows:

- a. Receiver, its employees and retained professionals, including counsel, shall prepare periodic statements of services rendered and time expended during the course of the receivership. The periodic statements shall be filed with the Court and made available to the parties in this litigation.
- b. Unless a party files a written motion objecting to the payment of a periodic invoice within twenty (20) calendar days of receipt of the invoice, Receiver is authorized to pay the invoice. In the event that a written objection to payment of the claim is timely made with the Receiver and the Court, the objection should be set for hearing by the objecting party as soon as possible.
- c. Until an Order is entered concerning any objection filed, Receiver shall be authorized to pay eighty percent (80%) of the fees stated in the invoice at issue and shall hold back payment of twenty percent (20%) of the charge for fees stated in said invoice.

13. Receiver will, within forty-five (45) days of qualification and appointment, file in this action an inventory of all property of which Receiver has taken possession. If Receiver subsequently comes into possession of additional property, Receiver will file a supplemental inventory as soon as practical.

14. In order to promote judicial efficiency, all persons who receive actual or constructive notice of this Order are enjoined in any way from disturbing the Receivership Property or from prosecuting any new proceedings (including collection or enforcement proceedings) that involve Receiver, the Receivership Property, or Operations unless such person or persons first obtains the permission of this Court.

15. PSW shall fully cooperate with Receiver in adding Receiver, any management company retained by Receiver, as additional insureds, and as the loss payee, on all insurance relating to the Receivership Property including, but not limited to, fire, extended coverage, property damage, liability, fidelity, errors and omissions, and workers compensation, and modifying the policies if deemed appropriate by Receiver. PSW and all persons acting under its direction are prohibited from canceling, reducing, or modifying any and all insurance coverage in existence with respect to the Receivership Property.

16. No lien, claim or other security interest in any property affected by this receivership will in any manner be affected by this Order. Any party's failure to oppose the appointment of Receiver, any party's consent to the appointment or any party's procurement of the appointment will not constitute waiver of any lien, claim or right.

17. Any person or any agent of any person with actual notice of this Order shall not interfere with any property in the control of Receiver or subject to this Order, nor interfere with Receiver in the carrying out of any duty under this Order.

18. PSW and any of its agents, employees, officers, directors, or representatives, are hereby enjoined and prohibited from interfering with the Receiver's execution of the duties set forth herein, and they shall comply with the orders of this Court and shall cooperate with the Receiver's reasonable requests concerning the Receivership Property and its operations, including executing documents and providing information necessary for the Receiver to implement this Order. PSW and any of its agents, employees, officers, directors, or representatives, are hereby enjoined from terminating, canceling or otherwise impairing any existing insurance coverage for the Receivership Property. Any violation of this Order shall subject the violator to possible contempt proceedings and sanctions such as fines or imprisonment.

19. This Order Appointing Receiver shall become effective after all both of the following events have occurred:

- (a) This Order Granting Receiver is signed; and
- (b) The Applicant has posted a bond or cash deposit in the amount of \$1,000 with the Travis County District Court; and

(c) The Receiver has posted a bond or cash deposit in the amount of \$1,000 with the Travis County District Clerk conditioned on faithful discharge of his duties and obedience to the Orders of the Court; and

13. The Receiver may apply to this Court for further instructions or direction, and this Court retains jurisdiction to enforce the terms of this Order.

14. This receivership shall continue in effect until further order of this Court.

IT IS SO ORDERED, this 31st day of July, 2023.



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Judge Presiding  
AMY CLARK MEACHUM

**AGREED AS TO FORM AND CONTENT:**

HAYWARD PLLC

/s/ Todd Headden

Todd Headden

State Bar No: 24096285

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**ATTORNEYS FOR DEFENDANT PSW REAL ESTATE LLC**

## Exhibit A- List of Affiliates

PSW Real Estate, LLC	SB-Parfitt Holdings, LLC
Storybuilt, LLC	SB-Parfitt, LLC
Storybuilt Community Management, LLC	PSW Webberville, LLC
SB Joint Venture GC, LLC	PSW-White Rock Trail, LLC
SB JV Property Management, LLC	PSW-Luma, LLC
PSW Seattle, LLC	6556 Ravenna, LLC
PSW Urban Homes, LLC	PSW Bruno Holdings, LLC
PSW GC, LLC	SB-Bruno, LLC
PSW RE, LLC	SB-Manchaca Road, LLC
Theme Studio, LLC	SB-George Holdings, LLC
PSW Seattle Real Estate, LLC	Pinehurst Land, LP
PSW Land Acquisitions, LLC	SB-Ozzie Holdings, LLC
SB Builders, LLC	SB-Ozzie, LLC
SB-Frank Condo, LLC	PSW-Springdale Manager, LLC
SB JV General Contractor, LLC	PSW-Springdale, LLC
SB-Fixed Holdings, LLC	SB-Springdale Office, LLC
Fixed Maintenance and Repair, LLC	SB-Ellie May Office Property Owner, LLC
SB-San Miguel Holdings GP, LLC	SB-Income Portfolio GP, LLC
SB-San Miguel Holdings, LLC	SB Income Portfolio SLP, LP
SB-Downtown Plano, LLC	SB Income Portfolio, LP
SB-Kramer Holdings, LLC	SB-Willa Commercial Holdings, LLC
SB-Dayton, LLC	SB Willa Commercial, LLC
SB-Dayton Holdings, LLC	SB-Kramer, LLC
SB Charley, LLC	PSW 900 Eastline, LP
Frank West Builder, LLC	PSW Urban Homes, LP
SB Austin SF Holdings, LLC	George 116-Austin, L.P.
900 South First GP, LLC	SB Webberville Road, LLC
Storybuilt Temporary, LLC	

CAUSE NO. \_\_\_\_\_

G.E.T. MARKETING, LLC,

*Plaintiff*

v.

PSW REAL ESTATE, LLC,

*Defendant.*

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

**RECEIVER'S CERTIFICATE OF INDEBTEDNESS**

1. For good and valuable consideration, receipt of which is hereby acknowledged, \_\_\_\_\_, the Court-appointed Receiver (the "Receiver") in the above-entitled action, solely in its capacity as Receiver herein, hereby issues this Receiver's Certificate in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to \_\_\_\_\_ ("\_\_\_\_\_"), in exchange for an advance of funds from \_\_\_\_\_ of the like sum. The Receiver shall use such funds to pay the immediate costs and expenses necessary to safeguard and administer this receivership estate.

2. This Certificate has priority over all other general claims against the receivership estate and constitutes a lien and charge upon all of the assets of the receivership estate including, but not limited to, the real property which is a part thereof, and shall be prior and superior to all liens, encumbrances, and claims against the receivership estate held by any secured creditor(s) thereof except for such receivership costs and expenses of administration (including the costs and fees of the Receiver and any attorneys and other professionals employed by the Receiver) as approved by the Court.

3. This Certificate is due and payable upon sixty (\_\_\_) days' notice by \_\_\_\_\_ to the Receiver or when the Court issues a formal order approving the Receiver's Final Report and Account of the receivership in this matter, whichever is earlier. The maturity date of this Certificate may be extended by the Court from time to time, in the Court's sole discretion.

4. This Certificate is subject to redemption at any time before maturity, without any prepayment penalty, by payment to \_\_\_\_\_ of the principal and interest then owing if, in the sole discretion of the Receiver, there are sufficient funds on hand in the receivership estate to make such payment. Upon payment in full of this Certificate, \_\_\_\_\_ shall immediately return the original Certificate to the Receiver.

5. This Certificate is not transferable or assignable without an order of the Court authorizing any such transfer or assignment.

6. This Certificate is issued under the authority of the State of Texas under and pursuant to Order Appointing Receiver entered in the above-captioned cause.

7. The advance of funds under this Certificate may be in increments. This Certificate bears simple interest at the rate of \_\_\_\_\_ percent (\_\_\_%) per annum from the date of receipt by the Receiver of each advance hereunder.

8. This Certificate evidences an obligation only of the receivership estate in the above-entitled action and is not a personal obligation of \_\_\_\_\_ or any other person or entity.

Dated: \_\_\_\_\_, 2023 \_\_\_\_\_

\_\_\_\_\_, Receiver