

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY,
FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 08-04225 (CA 07)

BANK OF AMERICA, N.A.,

Plaintiff,

v.

LEVITT AND SONS AT HAWK'S HAVEN, LLC;
LEVITT AND SONS AT HUNTER'S CREEK, LLC;
LEVITT AND SONS OF LAKE COUNTY, LLC;
LEVITT AND SONS OF SEMINOLE COUNTY,
LLC; LEVITT AND SONS OF OSCEOLA
COUNTY, LLC; and LEVITT AND SONS OF
FLAGLER COUNTY, LLC.

Defendants.

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CLERK, COUNTY COURT
BROWARD COUNTY

**CORRECTED ORDER GRANTING BANK OF AMERICA'S
EMERGENCY MOTION FOR THE APPOINTMENT OF A RECEIVER**

THIS CAUSE came before the Court on February 6, 2008, on the Emergency Motion for the Appointment of a Receiver filed by Plaintiff, Bank of America, N.A. ("BANA") against Levitt and Sons at Hawk's Haven, LLC; Levitt and Sons at Hunter's Creek, LLC; Levitt and Sons of Lake County, LLC; Levitt and Sons of Seminole County, LLC; Levitt and Sons of Osceola County, LLC; and Levitt and Sons of Flagler County, LLC (collectively, "Levitt and Sons") (the "Emergency Motion") and March 4, 2008, on the Receiver's Unopposed Motion for Entry of Corrected Order Appointing Receiver *Nunc Pro Tunc* (the "Receiver's Motion"). Having considered the Emergency Motion, including all supporting exhibits, the Receiver's Motion, and the Court file and being otherwise duly advised, it is hereby:

ORDERED and ADJUDGED as follows:

1. BANA's Emergency Motion for the Appointment of a Receiver and Receiver's Unopposed Motion for Entry of a Corrected Order Appointing Receiver are GRANTED *nunc pro tunc* as of February 6, 2008. BANA holds a valid, perfected, first priority mortgage on and security interest in the Collateral as defined below, and has demonstrated its right to and need for a Receiver to protect and preserve that Collateral.

2. Andrew J. Bolnick (the "Receiver"), who is qualified and independent, is hereby appointed Receiver of the property that is described in the Order Granting Creditor, Bank of America National Association's, Emergency Motion for Relief from the Automatic Stay or, Alternatively, Adequate Protection dated January 28, 2008 and entered in the United States Bankruptcy Court for the Southern District of Florida in In re Levitt and Sons LLC, et al., Case Number 07-19845-BKC-RBR ("Stay Relief Order"), a copy of which is attached as Exhibit "A," and described as all real and personal property relative to the following development projects, except as limited by paragraph 7 of the Stay Relief Order:

- A. Levitt and Sons of Lake County – Cascades at Groveland;
- B. Levitt and Sons at Hunter's Creek – Hunter's Creek;
- C. Levitt and Sons of Seminole County – (i) Reserve at Sanford, (ii) Jesup's Landing, and (iii) Jesup's Reserve;
- D. Levitt and Sons at Hawk's Haven - Cascades at River Hall;
- E. Levitt and Sons of Osceola County - Turtle Creek; and
- F. Levitt and Sons of Flagler County - Cascades at Grand Landing.

(collectively, the "Collateral"). The Receiver, effective as of February 6, 2008, is to take charge of, manage, preserve, and protect the Collateral and all property, rights and other things related

to the Collateral as set out in the provisions of this Order; and for such other purposes as may be authorized by the Court.

3. The Receiver shall file with this Court evidence of a cash or surety bond in the amount of one-hundred thousand dollars (\$100,000.00). The bond shall be in the customary form guaranteeing performance by the Receiver of the duties and obligations of the office of his receivership as described in this Order. The bond shall provide coverage to Plaintiff, Borrower, and other parties as their respective interests may appear for losses due to the wrongful acts or omissions of Receiver, including his agents, servants, employees, and representatives. The posting of this required bond shall be a condition to the effectiveness of this appointment of receiver.

4. The Receiver shall have ten (10) days from the date of the entry of this Order to file a copy of the bond with the Clerk of the Court.

5. The bond shall be deemed released upon the entry of an Order Releasing Bond, upon this case being closed or dismissed, or upon other Order of the Court.

6. The Receiver is hereby granted all of the usual, necessary, and incidental powers of receivers for the purpose of carrying out the provisions of this Order as it may consider necessary or appropriate, and is and shall be entitled during the pendency of this action to apply to this Court for further instructions and directions. The Receiver's powers include, but are not limited to, the powers to:

A. enter upon, receive, recover, and take complete and exclusive possession, control and management of the Collateral, including the revenues, rents, profits and proceeds thereof (collectively, the "Proceeds"), security, utility, or other deposits, and all contracts, agreements, leases, and other matters pertaining thereto;

- B. invest any Proceeds;
- C. take and maintain possession of all records, data, reports and other information pertaining to the Collateral, including but not limited to all books, documents, papers, and electronic or other media relating to the Collateral;
- D. hire a management company and such employees or other agents as the Receiver deems necessary or appropriate to carry out its responsibilities under this Order;
- E. preserve, protect, operate, repair, manage, and maintain the Collateral and avoid waste thereto to the extent reasonably practicable;
- F. obtain and maintain, with respect to the Collateral, casualty, liability and such other types of insurance in such amounts and with such insurers as the Receiver deems necessary;
- G. obtain, renew and/or modify land use, operating, and other licenses, permits, and approvals (including Development Orders);
- H. continue or complete any construction or repair involving the Collateral, with such changes, additions or modifications of the plans and specifications or intended disposition and use of the Collateral as the Receiver may deem necessary;
- I. employ such contractors, subcontractors, material men, architects, engineers, consultants, managers, brokers, marketing agents, or other employees, agents, independent contractors, attorneys, accountants, or professionals, as the Receiver deems necessary to carry out the rights and powers herein granted;
- J. enforce, modify, or terminate construction warranties of contractors, vendor contracts, or other contracts related to the Collateral;

K. execute and deliver such documents and instruments as are necessary or appropriate to exercise the rights and powers herein granted or to consummate authorized transactions;

L. perform and observe the requirements of, and correct, resolve, or cure any violations of laws, ordinances, and other legal requirements applicable to or affecting the Collateral, including, without limitation, zoning and land use ordinances, recorded restrictions and declarations, and other similar requirements;

M. enter into leases, whether of real or personal property, or other occupancy agreements as landlord or tenant;

N. sell and convey lots, parcels or other portions or components of the Collateral;

O. sell unneeded portions (including but not limited to property, materials or rights) of the Collateral;

P. obtain warranties from third-party providers to cover properties sold;

Q. sue for unpaid rents and profits, payments, income, or proceeds in the name of Levitt and Sons;

R. institute legal actions in the name of Levitt and Sons, to protect and preserve the Collateral or to recover any part of the Collateral that is improperly or illegally held by another;

S. exercise all rights of Levitt and Sons, whether such rights are granted to it as property holder, developer or otherwise, under all declarations of covenants, conditions, restrictions, articles of incorporation, and bylaws affecting the Collateral, and in respect of any homeowners or similar association established in connection with any of

the Collateral, including, without limitation, serving and designating persons to serve on the board of any Homeowners Association or similar association and exercising any right to approve or disapprove any actions of the board of directors pursuant to the terms of any such declarations or other documents, and exercise any other rights that Levitt and Sons may have under such documents or in respect to such bodies. As a member of any such board of directors the Receiver may exercise all powers of such a board member, including but not limited to setting assessments and taxes, collecting fees, hiring management, and maintaining common areas, even though the property subject to such powers is not a part of the Collateral.

T. exercise all rights of Levitt and Sons, whether such rights are granted to it as property holder, taxpayer, resident, developer or otherwise, under all laws, ordinances, resolutions, or trust indentures affecting the Collateral, and in respect of any community development district or similar entity established in connection with any of the Collateral, including, without limitation, serving and designating persons to serve on the board of any community development district or similar entity and exercising any right to approve or disapprove any actions of the board of supervisors (or other similar board) pursuant to the terms of any such laws, ordinances, resolutions or trust indentures, and exercise any other rights that Levitt and Sons may have under such documents or in respect to such bodies. As a member of any such board of supervisors or other similar board the Receiver may exercise all powers of such a board member, including but not limited to setting assessments and taxes, collecting fees, hiring management, and maintaining common areas, even though the property subject to such powers is not a part of the collateral; and

7. The Receiver shall exercise the foregoing rights and powers in a manner consistent with BANA's rights as the holder of a first priority lien and security interest in the Collateral.

8. The Receiver shall be entitled to be paid each month a receiver fee of one hundred and fifty dollars (\$150.00) per hour of time devoted to this receivership, plus reimbursement of reasonable out-of-pocket expenses to include the fees and costs associated with any employees, agents and professionals hired by the Receiver (the "Receiver Fee"). The Receiver shall file and serve an accounting of his time expended and services rendered, and the time expended and services rendered of all professionals, employees and agents retained by the Receiver, as part of his monthly report which shall be subject to review and bona fide objection by BANA. If no objections are filed within five (5) Business days of the filing of the monthly report, the Receiver is authorized to make payment to himself for his services for the applicable period from Proceeds received by the Receiver as assets of this receivership without further order of this Court. Subject to its right to object, BANA shall be responsible for the payment of the Receiver Fee to the extent the Proceeds are insufficient to pay the same. Any such sums advanced by Plaintiff shall be evidenced by Receiver's Certificates and secured by BANA's mortgages in accordance with the terms thereof.

9. Receiver shall prepare an Initial Project Assessment within forty-five (45) days of appointment, which it shall provide to BANA and file with the Court. The Initial Project Assessment shall meet the Fla. R. Civ. P. § 1.620 requirement for filing a true and complete inventory of the Collateral under oath.

10. Receiver shall render monthly statements ("Monthly Statements") of cash flow

and provide them to BANA within twenty (20) days after the end of each month. Copies of the Monthly Statements will not be filed with the Court, unless this Court subsequently orders.

11. Receiver shall maintain a bank account at a federally-insured institution in the name of Receiver in which all Proceeds of the Collateral, net of closing costs and mortgage release prices which shall be paid out at closing, shall be deposited and from which all expenses shall be paid.

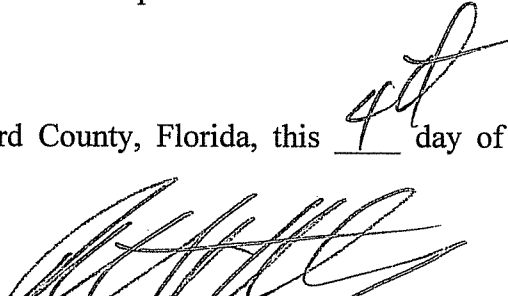
12. All parties are directed to cooperate with the Receiver to enable it to discharge its responsibilities hereunder, and are hereby enjoined from interfering in any way with the Receiver and the performance of its duties hereunder until further order of the Court except as specified herein.

13. The Receiver shall be deemed discharged upon an entry of an Order Discharging Receiver, upon the case being closed or dismissed, or upon other Order of the Court.

14. The Receiver has derived judicial immunity to the extent it complies with this Order and all subsequent orders of this Court.

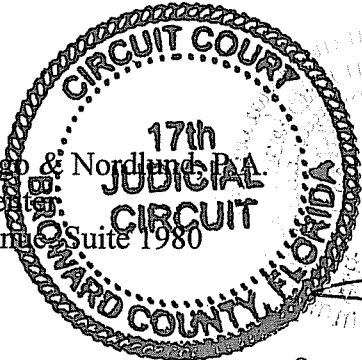
15. This Court reserves jurisdiction to enforce full compliance with the terms and conditions of this Order.

DONE and ORDERED in Chambers at Broward County, Florida, this 4th day of March, 2008.

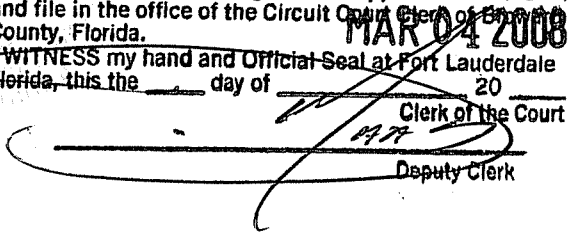

CIRCUIT COURT JUDGE

Copies furnished to:

Brian S. Dervishi, Esq.
Weissman, Dervishi, Borgo & Nordlund P.A.
SunTrust International Center
One Southeast Third Avenue, Suite 1980
Miami, FL 33131



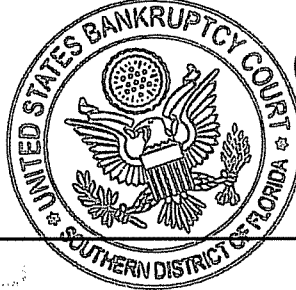
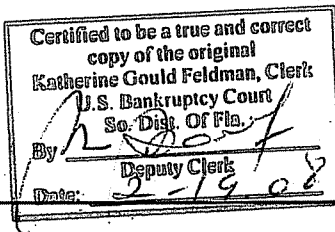
STATE OF FLORIDA
BROWARD COUNTY
I DO HEREBY CERTIFY the within and foregoing is a true and correct copy of the original as it appears on record and file in the office of the Circuit Court Clerk of Broward County, Florida.
WITNESS my hand and Official Seal at Fort Lauderdale Florida, this the _____ day of _____ 2008


Clerk of the Court
Deputy Clerk

Christopher N. Johnson, Esq.
Hunton & Williams LLP
2500 Mellon Financial Center
1111 Brickell Avenue
Miami, Florida 33131



ORDERED in the Southern District of Florida on January 28, 2008.



Raymond B. Ray, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
Broward Division
www.flsb.uscourts.gov

In re:

Chapter 11

LEVITT AND SONS, LLC,
a Florida limited liability company, *et al.*

Case No. 07-19845-BKC-RBR
Jointly Administered

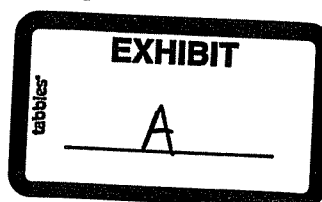
Debtors.

ORDER GRANTING CREDITOR, BANK OF AMERICA NATIONAL ASSOCIATION'S, EMERGENCY MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR, ALTERNATIVELY, ADEQUATE PROTECTION

THIS MATTER came before the Court on January 23, 2008 at 9:30 a.m., upon Creditor BANK OF AMERICA NATIONAL ASSOCIATION'S ("BANA") Emergency Motion for Relief from the Automatic Stay or, Alternatively, Adequate Protection (DE 916) (the "Motion"). The Court having reviewed the Motion, having heard the argument of counsel, and being otherwise duly advised in the premises, it is hereby:

ORDERED and ADJUDGED as follows:

1. The Motion is GRANTED in part and only as set forth herein.



2. Adequate notice of the Motion has been given as required by the Bankruptcy Code and Rules.

3. The Court finds that adequate cause exists for the granting of the relief herein and neither the relevant Debtors, the Joint Official Committee of Unsecured Creditors (the "Committee"), or the office of the United States Trustee objects to the relief set forth herein. The Limited Objection [DE 959] filed by the Committee is granted in part and denied in part as set forth herein.

4. The automatic stay contained in section 362 of the Bankruptcy Code is hereby modified as follows: BANA is hereby authorized to exercise any and all of its rights as a secured creditor relative to all collateral, other than the property/collateral referred to in paragraph 7 below, granted to BANA under those certain Loan Documents as defined in the Motion (hereafter the "Released Collateral") between BANA and LEVITT AND SONS, LLC, ("LAS"), LEVITT CONSTRUCTION-EAST, LLC, ("Levitt-East"), LEVITT AND SONS OF LAKE COUNTY, LLC ("LAS Lake County"), LEVITT AND SONS AT HUNTER'S CREEK, LLC ("LAS Hunter's Creek"), LEVITT AND SONS OF SEMINOLE COUNTY, LLC ("LAS Seminole County"), LEVITT AND SONS AT HAWK'S HAVEN, LLC ("LAS Hawk's Haven"), LEVITT AND SONS OF OSCEOLA COUNTY, LLC ("LAS Osceola County"), and LEVITT AND SONS OF FLAGLER COUNTY, LLC ("LAS Flagler County"). BANA asserts that the collateral ("Collateral") secured by the Loan Documents is composed of all real and personal property relative to the following development projects (the "Projects"):

- a. LAS Lake County – Cascades at Groveland;
- b. LAS Hunter's Creek – Hunter's Creek;
- c. LAS Seminole County – (i) Reserve at Sanford, (ii) Jessup's Reserve, and (iii) Jessup's Reserve;



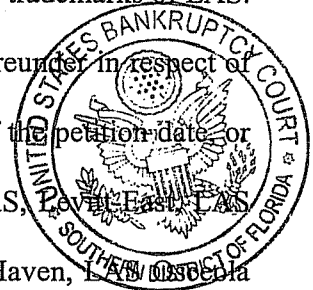
- d. LAS Hawk's Haven - Cascades at River Hall;
- e. LAS Osceola County - Turtle Creek;
- f. LAS Flagler County - Cascades at Grand Landing.

Relief from the stay is also granted to all third parties who may assert claims against the Released Collateral to allow holders of such claims to assert whatever claims or rights they may have in the Released Collateral including, but not limited to participating in the state court actions relative to the Released Collateral.

5. Except as provided in paragraph 7 below, BANA is hereby entitled to pursue any right, remedy, or relief with respect to the Released Collateral and allowable under the Loan Documents and/or under applicable non-bankruptcy law.

6. The Court hereby waives application of the ten-day stay contemplated by Federal Rule of Bankruptcy Procedure 4001(a)(3) and the relief granted herein is effective immediately upon the entry of this Order.

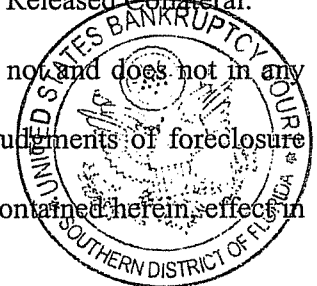
7. Relief from the automatic stay is NOT being granted to BANA in this Order with respect to any existing purchase contracts which have not closed as of the date hereof (including any such contracts alleged to be in default) for the sale of lots or homes that are part of the Collateral (the "Purchase Contract(s)"), any deposit presently held by or on behalf of the relevant Debtors related to the Purchase Contract, any cause of action of the relevant Debtors' estate(s) that may constitute the Collateral of BANA, or any names, trade names, and trademarks of LAS. In addition, BANA is not being granted relief against the automatic stay hereunder in respect of any lien asserted by BANA (a) against cash on hand with the Debtors as of the petition date or (b) against any other asset of any Debtor other than (i) those assets of LAS, Lake East, LAS Lake County, LAS Hunter's Creek, LAS Seminole County, LAS Hawk's Haven, LAS Osceola



County, and LAS Flagler County, and (ii) those assets of LAS solely related to the Projects, provided however, that BANA shall not pursue, absent further order of the Court and without prejudice, LAS or any other Debtor for the collection of amounts or obligations, if any owed (a) by LAS or any other Debtor of Levitt-East, LAS Lake County, LAS Hunter's Creek, LAS Seminole County, LAS Hawk's Haven, LAS Osceola County, and LAS Flagler County or (b) to LAS or any other Debtor by any Debtor or third party.

8. Notwithstanding anything herein or in the Motion to the contrary, neither this Order, nor that certain Order (DE 236) granting the Debtors' Motion for Authority to Abandon Property of the Estate to BANA, nor any order or judgment obtained by BANA in a state court action relative to the Released Collateral shall constitute a waiver or adjudication, or otherwise impair, release, diminish or affect any of the relevant Debtors' estates' rights, claims, causes of action, or objections including, but not limited to, claims under § 506 of the Bankruptcy Code and the avoidance claims under Bankruptcy Code Sections 544 through 550 against BANA, except, however, that all orders and judgments obtained in the state court action relative to any and all *in rem* relief sought with respect to the Released Collateral, shall be binding upon relevant Debtors and the relevant Debtors' estates, including any subsequent estate(s) or trustee(s), and, as otherwise provided by applicable non-bankruptcy law, creditors of the Debtors. The relevant Debtors who have any interest in the Released Collateral hereby expressly waive any and all *in rem* rights and interests to the Released Collateral and shall not contest any state court foreclosure proceeding instituted by BANA to foreclose the Released Collateral released hereby, including but not limited to the appointment of a receiver for the Released Collateral.

9. The reservation of rights contained in paragraph 8 shall not and does not in any way prevent, prohibit, affect or limit the ability of BANA to obtain judgments of foreclosure against the Released Collateral, nor shall this order, or any reservation contained herein, effect in



any way the transfer of good, marketable and insurable title to the Released Collateral, nor should it affect any foreclosure or similar sale conducted in the state courts in accordance with applicable non-bankruptcy law or under its Loan Documents, whether such sale is to BANA in respect of a credit bid or to a third party purchaser at any such sale.

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Submitted by:
Craig Rasile, Esq.
Counsel for Bank of America, N.A.
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Miami, Florida 33131
Telephone No. (305) 810-2500
Facsimile No. (305) 810-2460
E-mail: crasile@hunton.com

Attorney Rasile is directed to furnish conformed copies of this Order to all interested parties and to file a Certificate of Service with the Court.

