

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

208-214 E. 25TH ST. LLC,

Case No.: 22-11610 (jlg)

Debtor.

Related Docket No. 21

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**ORDER (I) DISMISSING BANKRUPTCY CASE PURSUANT 11 U.S.C. §§ 1112(b)(1)
AND (b)(4), (II) DIRECTING TURN OVER OF MONIES IN DEBTOR'S POSSESSION
AND CONTROL, INCLUDING MONIES IN DEBTOR'S ATTORNEYS' ESCROW
ACCOUNT TO LENDER, AND (III) GRANTING RELATED RELIEF**

Upon the Motion dated December 27, 2022, by 25th Street Multifamily LLC (“**Lender**”), by its attorneys, Katsky Korins LLP, for the entry of order (i) dismissing the single asset real estate case of 208-214 E. 25th St. LLC (the “**Debtor**”) pursuant to 11 U.S.C. §§ 1112(b)(1) and (b)(4), (ii) upon granting dismissal, directing the Debtor and its counsel Goldberg Weprin Finkel Goldstein LLP (“**GWFG**”) to turn over all of Debtor’s monies contained in the Debtor’s Counsel’s escrow account to the Lender or, alternatively, to the state court receiver, and (iii) granting related relief (the “**Motion**”) (ECF No. 21); and upon the Notice of Motion dated December 27, 2022 by the Lender, by its counsel (the “**Notice**”) (~~ECF 21-1~~) (**ECF 21-2**) [**JLG**]; and upon the Declaration of Thomas Hooker dated December 27, 2022, in support of the Motion (the “**Hooker Declaration**”) (ECF No. 22); and upon the affidavits of service of the Notice, the Motion and the Hooker Declaration, with all exhibits thereto, filed with the Court (ECF No. 23 and 24); and upon the memo endorsed order of the Court dated January 18, 2023, among other things, adjourning the hearing date on the Motion to February 14, 2023 and fixing the date for the Debtor to file responsive papers to the Motion and for the Lender to file reply papers in

support of the Motion (ECF No. 29); and upon the Declaration of Steven Croman in Opposition to the Note Buyer's Motion to Dismiss the Chapter 11 Case, dated January 24, 2023 (ECF No. 34); and upon the Debtor's Memorandum of Law in Opposition to the Note Buyer's Motion to Dismiss Chapter 11 Case, dated January 24, 2023 (~~ECF No. 34-3~~) (**ECF No. 34-4**) [**JLG**]; and upon the Reply by Lender in Further Support of the Motion, dated February 3, 2023 ("**Lender's Reply**") (ECF No. 35); and this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 1334 and 157, and the Amended Standing Order of Reference from the United States District Court for the Southern District of New York, dated January 31, 2022 (Preska, C.J.); and the Motion is a core matter pursuant to 28 U.S.C. § 157(b)(2); and venue of the Motion is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and adequate notice of the Motion, the Notice, the Hooker Declaration and the Lender's Reply having been given under the circumstances as evidenced by the affidavits of service on file with the Court (ECF Nos. 23, 24, and 37), and no other or further notice need be given; and the Court having held a hearing on February 14, 2023 to consider the relief requested in the Motion (the "**Hearing**"); and the Court having heard arguments from counsel for the Lender and counsel for the Debtor; and upon the record of the Hearing and the Court having so-ordered the record of the Hearing; and after due deliberation, and good and sufficient cause appearing therefor

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is hereby GRANTED.
2. The Court hereby determines and finds that the Debtor cannot meet the subjective and objective criteria of *In re C-TC 9th Avenue Partnership*, 113 F.3d 1304 (2d Cir. 1997) to sustain the Chapter 11 filing as a good faith filing within the meaning of the Bankruptcy Code

for all the reasons set forth on the record of the Hearing and the Chapter 11 case is dismissed as a two-party dispute, with the parties to resume all pending litigation in the state court.

3. The Court hereby determines and finds that that “cause” exists to dismiss this Chapter 11 case as a bad faith filing pursuant to §§ 1112(b)(1) and (4) of the Bankruptcy Code.

4. The Debtor and Debtor’s counsel, GWFG, shall, within three (3) business days after the date that this Order is entered by the Court, deliver to Haley Greenberg, Esq, as receiver (the “**Receiver**”), by wire transfer pursuant to wire instructions that the Receiver shall provide to GWFG, all of the Debtor’s monies in the Debtor’s and GWFG’s possession and/or control, including, without limitation, the sum of \$902,785.70 held by GWFG on behalf of the Debtor in GWFG’s attorney escrow account.

5. As of the date that is five (5) business days after the date that this Order is entered by the Court, (i) the Debtor’s Chapter 11 case is hereby dismissed; and (ii) pursuant to §§ 362(c)(1) and (2) of the Bankruptcy Code, the automatic stay under § 362(a) of the Bankruptcy Code is hereby terminated.

6. Notwithstanding anything to the contrary, the Court hereby retains jurisdiction to interpret and enforce all of the terms of this Order, including, without limitation, the provisions of Paragraph 4 above.

Dated: New York, New York
March 10, 2023

/s/ James L. Garrity, Jr.
THE HONORABLE JAMES L. GARRITY, JR.