

THE HONORABLE JAMES L. ROBERT

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
vs.
PATH AMERICA, LLC et al.,
Defendants and Relief Defendants.

Civil Action No. C-15-1350-JLR

STIPULATION AND ~~PROPOSED~~
ORDER RE: NONPARTY VOYA
INSURANCE AND ANNUITY
COMPANY'S APPEARANCE TO
ASSERT CLAIMS AS SECURED
CREDITOR OF CERTAIN
RECEIVERSHIP PROPERTY

STIPULATION

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The Plaintiff Securities and Exchange Commission (“the SEC”), the Receiver , Michael Grassmueck, and nonparty Voya Insurance and Annuity Company (“Voya”), by and through their respective counsel, hereby stipulate to the following:

WHEREAS on January 14, 2016, the Court entered an Order denying Voya’s Motion to Intervene in this case, and on February 12, 2016 Voya filed a notice of appeal from the Order;

WHEREAS Voya is an interested person in the receivership estate under the control of the Receiver, by virtue of its secured interest in property under the control of the Receiver, having provided a loan that is secured by a deed of trust over the real property and improvements comprising the Potala Farmer’s Market Project located at 2900 Grand Avenue, Everett, Snohomish County, Washington 98201 (the “Market Project”);


WHEREAS the SEC and the Receiver understand that Voya may have need to formally object to actions or proposed actions of the Receiver, or to otherwise seek redress from the Court in furtherance of its secured interest, and do not object to Voya’s appearance in this case as an interested person for such purposes without the need to first seek leave of the Court to intervene as a party;

NOW, THEREFORE, the SEC, the Receiver, and Voya hereby stipulate and agree: Voya may appear and be heard in this case as an interested person for the purpose of objecting to, or supporting, the actions or proposed actions of the Receiver that Voya believes may affect its secured interest in property under the control of the Receiver, or seek redress from the Court in furtherance of its secured interest, including the right to file motions for such purposes, without the need to first seek leave of the Court to intervene as a party.

1 **STIPULATED AND AGREED TO BY:**

2 Dated: May , 2016

/s/ Susan F. LaMarca
Susan F. LaMarca
Andrew J. Hefty
SECURITIES AND EXCHANGE COMMISSION
44 Montgomery Street, Suite 2800
San Francisco, CA 94104

6 /s/ 
David W. Criswell
BALL JANIK LLP
101 SW Main Street, Suite 1100
Portland, OR 97204
Attorneys for
VOYA Insurance and Annuity Company

11 /s/ Michael Farrell
David R. Zaro
Michael Farrell
ALLEN MATKINS LECK GAMBLE MALLORY
& NATSIS
515 S. Figueroa Street, 7th Floor
Los Angeles, CA 90071
Attorneys for Receiver


16 **~~PROPOSED~~ ORDER** 

17 Based upon the Above Stipulation:

18 Voya may appear and be heard in this case as an interested person for the purpose of
19 objecting to, or supporting, the actions or proposed actions of the Receiver that Voya
20 believes may affect its secured interest in property under the control of the Receiver, or
21 seek redress from the Court in furtherance of its secured interest, including the right to file
22 motions for such purposes, without the need to first seek leave of the Court to intervene as
23 a party.

24 IT IS SO ORDERED.

25 Dated: this 25 day of May, 2016

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JAMES L. ROBART
United States District Judge

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CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2016, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of the filing to all counsel of record.

Dated: May 24, 2016

s/ Michael R. Farrell
Michael R. Farrell, Esq. #173831 (CA)
(Pro Hac Vice Granted Nov. 6, 2015)