

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, AS TRUSTEE, FOR
THE BENEFIT OF THE HOLDERS
OF LCCM 2017-LC26 MORTGAGE
TRUST COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES,
SERIES 2017-LC26,**

Plaintiff,

v.

**PLAZA INVESTMENTS II
HOLDINGS, L.L.C. and PLAZA
INVESTMENTS III HOLDINGS,
L.L.C.,**

Defendants.

CASE 5:24-cv-01275

DISTRICT JUDGE HICKS

MAG. JUDGE HORNSBY

**JOINT NOTICE OF PROPOSED CONSENT ORDER
ON MOTION TO APPOINT RECEIVER**

Plaintiff Wilmington Trust National Association (“Wilmington”), not in its individual capacity, but solely as trustee (the “Trustee”) for the registered holders of LCCM 2017-LC26 Mortgage Trust Commercial Mortgage Pass-Through Certificates, Series 2017-LC266 (the “Lender”), acting by and through its Special Servicer, K-Star Asset Management, LLC (“K-Star”), and Defendants Plaza Investments II Holdings, L.L.C. and Plaza Investments III Holdings, L.L.C. (collectively, “Borrower”), making a limited appearance for purposes of this Notice only, jointly provide this Notice in connection with the *Verified Complaint for Appointment of a Receiver, Breach of Contract, and Other Equitable and Legal Relief* (the “Verified Complaint”) filed on September 18, 2024, and *Motion to Appoint Receiver* (the “Motion”) filed by Lender against Borrower on September 18, 2024.

In consideration of the Borrower's agreement to consent to entry of the Order, the Lender, on behalf of itself and any successors in interest, agrees that Lender shall not assert a recourse claim against the Guarantors pursuant to Section 1.2(b)(ix) of the Guaranty when Borrower, at the request of Lender, "consents to, or acquiesces in, or joins in, an application for the appointment of a custodian, receiver" This limited agreement by Lender relates solely to any recourse claims which may arise or be triggered solely pursuant to Section 1.2(b)(ix) of the Guaranty solely as a result of the Borrower providing consent to the entry of this Order appointing a receiver. This limited waiver does not waive, amend, modify or alter in any way any other recourse claims which may exist or arise before or after such consent is provided, all of which are reserved by Lender.

The parties therefore jointly submit this Notice of the proposed Order, a copy of which is attached hereto as **EXHIBIT A**, the terms of which have been consented to by Borrower, subject to the limited agreement stated above. The Parties therefore request that the Court enter the Order in the form of the attached without further notice or hearing, insofar as all parties have consented to the relief in the Order.

Respectfully submitted,

/s/ Joseph P. Briggett
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as Trustee, for the benefit of the holders of LCCM
2017-LC26 Mortgage Trust Commercial Mortgage
Pass-Through Certificates, Series 2017-LC26*

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2024, the foregoing Notice was electronically filed and served via this Court's CM/ECF e-filing system on all parties receiving notice herein; and I further hereby certify that on this 19th day of September 2024, the foregoing Notice of Proposed Consent Order was served via e-mail and first class U.S. Mail, postage prepaid, to Defendants' counsel at the following address:

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WILMINGTON TRUST, NATIONAL
ASSOCIATION, AS TRUSTEE, FOR
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PASS-THROUGH CERTIFICATES,
SERIES 2017-LC26,

Plaintiff,

v.

PLAZA INVESTMENTS II
HOLDINGS, L.L.C. and PLAZA
INVESTMENTS III HOLDINGS,
L.L.C.,

Defendants.

CASE NO. 24-1275

DISTRICT JUDGE HICKS

MAG. JUDGE HORNSBY

ORDER APPOINTING RECEIVER

Upon consideration of the *Verified Complaint for Appointment of a Receiver, Breach of Contract, and Other Equitable and Legal Relief* (the "Verified Complaint") filed on September 18, 2024, and *Motion to Appoint Receiver* (the "Motion") filed on September 18, 2024, by Plaintiff Wilmington Trust National Association ("Wilmington"), not in its individual capacity, but solely as trustee (the "Trustee") for the registered holders of LCCM 2017-LC26 Mortgage Trust Commercial Mortgage Pass-Through Certificates, Series 2017-LC266 (the "Lender"), acting by and through its Special Servicer, K-Star Asset Management, LLC ("K-Star") against Defendants Plaza Investments II Holdings, L.L.C. and Plaza Investments III Holdings, L.L.C. (collectively, "Borrower"). For good cause shown, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. The Verified Complaint and the Motion establish sufficient grounds for the appointment of a receiver. The relief sought in the Verified Complaint and the Motion as to appointment of a receiver is, therefore, GRANTED.

2. All terms not otherwise defined herein shall have the meaning ascribed to them in the Verified Complaint.

3. Effective immediately, Trigild Property Management LLC ("Receiver") is hereby appointed as receiver of the Collateral.

4. Receiver will immediately assume all of its rights, power, duties, liabilities, and responsibilities as receiver with respect to the Collateral and is authorized to take any actions necessary as receiver, effective two (2) business days after entry of this order (the "Effective Date"). On the Effective Date, Receiver shall begin to exercise such duties, responsibilities, power, and authority with respect to the Collateral as allowed by law, as set forth in the Loan Documents, and as set forth herein.

5. Borrower, its constituent officers, custodians, and agents shall immediately surrender complete control of the Collateral to Receiver, provide Receiver with uninterrupted access to and control over all books, records, accounts, and documents relating to the Collateral and the operations of the Property, and remit at the direction of Receiver all funds currently in possession of Borrower, including, without limitation, all Rents and receipts and revenues generated by, attendant to, or associated with the Property including, without limitation, tenant security deposits.

6. On a continuing basis and subject to further order of the Court, Borrower shall pay to or at the direction of Receiver all funds received after the date of this Order that constitute Rents including without limitation security deposits, rent, revenues, receipts, CAM collections, and

termination fees received by Borrower or by others on behalf of Borrower from, related to, or on account of the Property.

7. Borrower shall immediately turn over to Receiver all books, records, security deposits, escrows, leases, contracts, computers and access to all financial and other information relating to the Property and the operations thereof maintained in any form, including electronically, and further including information regarding computers and software programs utilized by Borrower, and as well as all administrator access codes, user names, passwords, and other information or authorization necessary to give Receiver full access to all such information and data relating to the Collateral.

8. Any and all other persons and entities in possession of or having custody or control over any documents, books, or accounting records relating to the operation of the Property shall deliver them to Receiver forthwith and shall account for and pay over to or at the direction of Receiver any and all Rents or revenues of the Property in his/her/its possession, either in the form of rents, profits, security deposits or otherwise. Included within these records are copies, if any, of all service contracts, vendor records, utility bills, personnel and payroll records, any and all current or past operating statements of the Property, and any other documents maintained by Borrower or on behalf of Borrower pertinent to the management and/or operation of the Property.

9. Until further order of this Court, Borrower and those acting in concert with or on behalf of Borrower on notice of this Order, are each bound by the following duties:

- (a) To cooperate fully with Receiver in the administration and discharge of Receiver's duties and to comply with all rules and orders of the Court;
- (b) To deliver to Receiver, immediately upon Receiver's appointment and demand, all of the property which is Collateral in such person's possession,

custody, or control, including all books and records, electronic data, passwords, access codes, statements of accounts, deeds, titles or other evidence of ownership, financial statements, financial and lien information, bank account statements, and all other papers and documents related to the Collateral;

(c) To supply to Receiver information as reasonably requested relating to the administration of the Collateral, including information necessary to complete any reports or other documents that Receiver may be required to file; and

(d) To remain responsible for the filing of all tax returns, including those returns applicable to periods which include those in which this Order is in effect, except as otherwise ordered by the Court, to the extent that such duties existed prior to entry of this Order.

10. In no event shall this Order operate as a stay or injunction of an act, action, or proceeding by Lender to foreclose the Mortgage on the Collateral.

11. Receiver shall have all of the usual powers and duties of Receivers in similar cases, including, without limitation, the full power to hold, rent, lease, manage, maintain, operate, market, sell (subject to further Court order and approval), and otherwise use or permit the use of the Collateral, subject to Lender's approval to the extent Borrower would be required to obtain such approval pursuant to the Loan Documents (as defined in the Verified Complaint) prior to taking such action (collectively, the "Receiver's Powers"), including without limitation, the power to:

(a) Enter upon and take possession and control of the Property, and to perform all acts necessary and appropriate for the operation and maintenance thereof;

(b) Take and maintain possession of all documents, books, records, papers and accounts relating to the Property;

- (c) Exclude Borrower and Borrower's agents, servants, and employees, or any other person wholly from the Property, including changing any and all locks and/or access codes to the Property;
- (d) Allow Lender, its counsel, appraisers, and other independent third-party consultants engaged by Lender or its counsel access to the Property at all reasonable times to inspect the Property and all books and records, and to cooperate with Lender, its counsel, appraisers and other independent third-party consultants to evaluate the Property;
- (e) Manage and operate the Property under any existing name or trade name (or new name) if Receiver deems appropriate to do so;
- (f) Exercise any and all rights of Borrower in and to any and all license agreements;
- (g) Retain, hire, or discharge on-site employees at the Property without any liability to the Receiver or Lender and to establish pay rates for on-site employees at the Property;
- (h) Preserve, maintain, and make repairs and/or alterations to the Property;
- (i) Conduct a marketing program with respect to the Property or employ marketing brokers or agents to do so, directed to the sale or leasing of the Property;
- (j) Employ and compensate such property managers, attorneys, contractors, subcontractors, materialmen, architects, engineers, accountants, consultants, managers, brokers, marketing agents, leasing agents or other employees, agents, independent contractors, or professionals, as Receiver may deem appropriate or desirable to implement and effectuate the rights and powers granted herein;
- (k) Terminate Borrower's existing property management agreement without liability to Receiver or Lender and engage a property management company for the Property upon such terms and conditions as Receiver may deem appropriate and consistent with industry standards;
- (l) Execute and deliver, as attorney-in-fact and agent of Borrower or in Borrower's own name, such documents and instruments as are necessary or appropriate to consummate transactions authorized by order of this Court;

- (m) Enter into such leases, whether of movable or immovable property, or tenancy agreements;
- (n) Use the cash management systems implemented pursuant to the Loan Documents to collect and receive all Rents from the Property;
- (o) Eject tenants or repossess personal property, as provided by law, for breaches of the conditions of their leases or other agreements;
- (p) Pursue legal remedies for unpaid Rents, payments, income or proceeds in the name of Borrower and maintain actions in forcible entry and detainer, ejectment for possession and actions in distress for Rent;
- (q) Compromise or give acquittance for Rents, payments, income or proceeds that may be or become due;
- (r) Require any and all officers, directors, managers, agents, representatives, independent contractors, partners, affiliates, attorneys, accountants, shareholders, and employees of Borrower to return any and all Collateral in their possession;
- (s) Open and review mail directed to Borrower and Borrower's representatives pertaining to the Property;
- (t) Analyze, determine and implement the best approach to maximize value of the Property for the benefit of Borrower's creditors, provided, however, that in no event shall Receiver's powers granted hereunder, in any way impair Lender's ability to exercise its rights and remedies under the Loan Documents, including, without limitation, the right to foreclose the Property as provided in the Mortgage;
- (u) Enter into contracts and agreements necessary to continue normal operations of the Property in the name of Borrower or Receiver and/or amend, modify or terminate any existing contracts affecting the operations of the Property;
- (v) Pay all appropriate real estate taxes, personal property taxes, or other taxes or assessments against the Property, from funds generated by the Property, provided, however, that liabilities for the aforementioned tax obligations shall be liabilities of the Borrower and not personal liabilities of Receiver or its employees or agents, as long as Receiver acts in accordance with this Court's Order;
- (w) Exercise all rights of Borrower in and to all government-issued permits, certificates, licenses or other grants of authority, to take all steps necessary to ensure

the continued validity of such permits, certificates and licenses, and to take all steps necessary to comply with all requirements, regulations and laws applicable to the Property;

(x) Maintain a separate bank account with a federally insured banking institution or a savings association with offices in the State of Louisiana in Borrower's name or in Receiver's name, as Receiver, from which Receiver shall disburse all payments authorized by order of this Court;

(y) Use Borrower's Tax ID number as needed for Receiver to perform its duties in the name of Borrower as provided herein;

(z) Receive and endorse checks or other remittances pertaining to the Collateral, including without limitation any checks for or related to Rents and insurance proceeds, either in Receiver's name as Receiver or in Borrower's name;

(aa) Make payments to Lender on account of Lender's liens on the Collateral; and

(bb) Do any acts appropriate or desirable to protect the security of the Collateral and use such measures, legal, or equitable which are appropriate or desirable to implement and effectuate the provisions of the Loan Documents and this Order.

12. Until further Order of this Court, Receiver's actions shall be subject to the same approval and consent requirements imposed on Borrower by the Loan Documents.

13. Receiver shall maintain accurate accounting and other records on a cash basis of its activities in connection herewith and shall serve on the parties reports monthly detailing the results from operations of the Property, and as additionally reports ordered by the Court, if any. Such reports shall include a full financial package including a General Ledger, Balance Sheet, Bank Statement, Rent Roll, Income Statement and details of marketing or leasing activity and any other events impacting the Property beginning as of the first full month following entry of this Order. Receiver shall prepare and file with the Court executive summary reports on a monthly basis which reports need not include the full financial package served on the parties.

14. Receiver shall not be responsible for the preparation or filing of any tax return for or on behalf of Borrower or any affiliate of Borrower. Upon Borrower's written request to Receiver, Receiver shall provide information in its possession to assist Borrower in preparing and filing its tax returns. Receiver shall not be liable for the payment of taxes, assessments, goods or services provided to Borrower for the Property prior to the date of this Order.

15. If a governmental agency issuing permits, certificates, licenses, or other grants of authority necessary for operation of the Property requires that Receiver or its nominee apply for a new license, permit or other document, Receiver or its nominee may continue to operate under the current permit until a new one is issued to ensure continuation of service.

16. Receiver has the power to procure, assume, or maintain appropriate utility services for the Property including transfer of any deposit posted with a utility provider to continue utility services after appointment of Receiver.

17. The obligations of Borrower as described in this Order are on-going, specifically including without limitation, the obligation to turn over information, documents, funds, Rents, and all else to which Receiver is entitled.

18. Receiver is authorized to hire employees at the Property and pay such employees at pay rates in Receiver's discretion which are consistent with the standards of the community in which the Property is located. To the extent Receiver decides to hire any of the dismissed employees, agents, or other personnel of Borrower or its agents, Receiver shall not be liable for any claims of such employees, agents, or other personnel that arose prior to the date and time of the entry of this Order. Borrower or any management companies engaged by Borrower (as appropriate) will be solely and exclusively responsible for (a) any claims or liabilities that arose prior to the appointment of Receiver that are in any way related to an employee's employment

with or separation from Borrower or any management companies engaged by Borrower, including any compensation, benefits, accrued vacation, payroll taxes, workers compensation insurance, liabilities, contractual obligations, benefit plans, and (b) liabilities existing prior to Receiver's appointment related to the Worker Adjustment and Retraining Notification Act (WARN), 29 U.S.C. § 2101, *et seq.*, and liabilities existing prior to Receiver's appointment related to the Consolidated Omnibus Budget Reconciliation Act (COBRA), or similar state statutes or regulations.

19. Receiver shall take possession of and receive from all depositories, banks, brokerages and otherwise (collectively the "Financial Institutions"), any money on deposit in all such Financial Institutions of Borrower or arising from the operation of the Property, whether such funds be in accounts titled in the name of Borrower or not, including any account held in the name of any agent or manager in which deposits related to the Property are or have been held since origination of the Loan. All Financial Institutions are directed to deliver such deposits to Receiver and such records as Receiver may reasonably request with respect to such accounts. Receiver is empowered to open new accounts using a new tax ID number or Borrower's tax ID number, or close any such accounts. Receiver shall deposit monies and funds collected and received in connection with the Property at a federally insured banking institution or savings association with locations in the State of Louisiana and may use the cash management accounts established and controlled by Lender as provided in the Loan Documents. Borrower shall assist and cooperate with Receiver to turn over all funds from the Financial Institutions to Receiver, time being of the essence.

20. Receiver shall serve at the pleasure of this Court and shall be compensated for its services as Receiver and for other services rendered in relation to the Property at the greater of

\$3,000.00 per month or the hourly compensation based on actual time spent at the rate \$300, plus reimbursement of all out-of-pocket expenses incurred in the performance of the rights and duties of Receiver under this Order. Without limitation, Receiver is authorized to engage a property manager and leasing agent on terms that are consistent with this Order and the Loan Documents.

21. Funds received from the operation of the Property shall be applied to reimburse Receiver for all reasonable costs and expenses that it (or its delegates) incurred as a result of serving as Receiver, for payment of insurance premiums and management fees, to compensate Receiver for its services as Receiver, and for payment of all obligations under the Loan Documents. Receiver shall have no obligation to advance funds beyond revenues from the Property. Lender may, in Lender's sole discretion, advance funds to Receiver to cover operating shortfalls for the Property or as Lender otherwise deems appropriate for protection of the Property; however, Lender shall not be required to do so. To the extent that Lender does advance funds to Receiver for use pursuant to this Order, such funds shall be Obligations under the Loan Documents secured by the Collateral.

22. Nothing in this Order shall impair or in any manner prejudice the rights of Lender to receive payments pursuant to the terms and provisions of the Loan Documents or to exercise its other rights and remedies as to the Collateral including, without limitation, to foreclose on the Collateral.

23. Receiver is hereby authorized to remit to Lender all funds, proceeds, and rents that constitute Collateral for application to the indebtedness of Borrower under the Loan Documents.

24. Upon entry of this Order, the Receiver shall be responsible for the maintenance of adequate property and liability insurance respecting the Property, utilizing the Borrower's existing policies or securing new policies, for the entire term of the Receiver's appointment. The insurance

policies, which the Receiver will maintain, shall provide all risk property insurance coverage and other coverages on the Property and improvements thereon in such amounts as will adequately protect Lender's security interest and the interests of the Receiver and other parties as their interests may appear, in amounts not less than as required in the Loan Documents with respect to the interests of Lender and any other applicable security agreements, the cost of which shall be a property expense payable in accordance with the terms of this Order. The Receiver shall be entitled to receive and hold any premium refunds from any existing insurance policies with the disposition thereof subject to further order of the Court. Receiver and any property manager shall be named as an insured party on existing commercial general liability insurance, and Lender shall be a loss payee on existing property and business interruption insurance policies on the Property which shall include a waiver of subrogation in favor of the Receiver and any property manager. Receiver is authorized in its discretion to terminate any existing insurance policies and to procure policies of insurance in accordance with the Loan Documents as a property expense. Any deductible or self-insured retention on a loss that occurs during the time when this Order is in effect shall be a property expense. Any refund or return of an unearned insurance premium with regard to any insurance policy insuring the Property shall be paid to Lender.

25. Receiver is authorized to pay all expenses incurred with regard to the Property in the normal and ordinary course of business on or after the date Receiver is appointed in accordance with the Loan Documents. Neither Receiver nor Lender shall be liable for any expenses incurred with regard to the Property prior to Receiver taking possession of the Property, nor shall Receiver or Lender be required to use any rents or additional funds advanced by Lender or other revenues collected after Receiver takes possession of the Property in payment of such expenses. Notwithstanding the foregoing, Receiver may, in Receiver's discretion, pay those expenses that

were incurred in the normal and ordinary course of business of the Property and that were incurred prior to Receiver taking possession of the Property, if, and only if, the payment of any such pre-existing expenses is in the best interest for the continued operation of the Property or necessary to the protection and preservation of the Collateral.

26. This Order is without prejudice to the right of the Lender or Receiver to make future application to this Court by motion and upon notice to all parties for further or other authority as may be necessary in its performance of its duties, including without limitation expanded powers.

27. Receiver will assume all of its rights, powers, duties, liabilities, or responsibilities as Receiver, and shall undertake any actions necessary of any kind as Receiver as of the Effective Date, said duties remaining pending further order of the Court or as otherwise provided in this Order hereinbelow. The authority granted to Receiver is self-executing.

28. Receiver shall not be liable for Borrower's claims, debts, obligations, actions, causes of action, costs, debts, or expenses. Liabilities incurred by Receiver in its capacity as Receiver shall be liabilities charged against the Collateral and not liabilities of Receiver or its employees or agents, as long as Receiver acts in accordance with this Court's Order.

29. Receiver shall have no liability for any acts or omissions taken with respect to Borrower, the Collateral, the Property or pursuant to this Order except to the extent arising due to Receiver's gross negligence, fraud, illegal acts, or willful misconduct. Any risk, obligation, or liability incurred by Receiver in connection with this order (other than arising due to Receiver's gross negligence, fraud, illegal acts or willful misconduct) shall be charged against the Collateral.

30. This authority of the Receiver shall continue until further order of the Court. In the event that the Property is sold at foreclosure or title thereto is otherwise transferred in a manner consistent with this Order or other order of the Court, the Property shall no longer be an asset

subject to this Order, and Receiver shall no longer have the duty to operate and maintain the Property upon such transfer of title to the Property. Once the Property is no longer subject to this Order, Receiver shall have a period not to exceed ninety (90) days to pay final expenses related to the Property, to conduct any business necessary and predicate to closing out the matters created by this Order, and to file a final report and accounting after which application may be made to the Court for discharge of Receiver.

31. Within three (3) business days after entry of this Order, Receiver shall serve a copy of this Order on Defendant and any person of whom Receiver is aware that has or may claim to have a lien on or security interest in any of the Immovable Property. To the extent that Receiver discovers the identity of additional such parties subsequently, Receiver shall serve a copy of this Order on such persons promptly.

32. Nothing in this Order shall be construed to impair or otherwise affect Plaintiff's rights or remedies under the Loan Documents or applicable law.

33. There is no just reason to delay entry of final judgment with respect to the relief granted by this Order, and the Court directs, pursuant to Rule 66 of the Federal Rules of Civil Procedure, that this Order constitutes a final judgment with respect to the relief granted hereby.

34. This Order resolves the *Motion to Appoint Federal Receiver* (R. Doc. 2) and renders moot the *Motion to Expedite Hearing* (R. Doc. 3). The Court will reserve judgment on all other matters addressed in the Verified Complaint not expressly addressed by this Order and will address those issues at the trial of this matter or upon motion of any party.

Entered this _____ day of _____, 2024.

UNITED STATES MAGISTRATE JUDGE