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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

11 SECURITIES AND EXCHANGE  
COMMISSION,

12 Plaintiff,

13 v.

14 SILICONSAGE BUILDERS, LLC aka  
15 SILICON SAGE BUILDERS and  
16 SANJEEV ACHARYA,

17 Defendants.

Case No. 3:20-cv-09247-SI

**STIPULATION AND ORDER  
RESOLVING MOTION OF PARKVIEW  
FINANCIAL REIT, LP FOR  
MODIFICATION OF PRELIMINARY  
INJUNCTION**

Hearing on Motion:

DATE: October 22, 2021

TIME: 10:00 a.m.

CTRM: 1- 17<sup>th</sup> Floor (Hearing by Zoom)

Hon. Susan Illston

18 **TO THE HONORABLE SUSAN ILLSTON, UNITED STATES DISTRICT JUDGE:**

19 This stipulation ("Stipulation") is entered into between Parkview Financial REIT, LP  
20 ("Parkview") and David Stapleton, in his capacity as the Receiver (the "Receiver") for  
21 SiliconSage Builders, LLC, and its subsidiaries and affiliates, including 2101 Alum Rock,  
22 LLP (the "Borrower"), pursuant to the following recitals:

23 **RECITALS**

24 1. On February 10, 2021, the Court entered the *Order on Plaintiff Securities*  
25 *and Exchange Commission's Motion for Appointment of Receiver* (the "Receivership  
26 Order") under which it appointed David Stapleton as the receiver (the "Receiver") over  
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1 SiliconSage Builders, LLC, and its subsidiaries and affiliates (together, the "Receivership  
2 Entities").

3 2. Among other things, the Receivership Order vests the Receiver with  
4 exclusive authority and control over the property of the Receivership Entities, including  
5 their real property. The Receivership Order contains an injunction against interference  
6 with the Receiver and his administration of the assets of the receivership estate.

7 3. On or about April 21, 2021, the Court granted the motion of the Receiver to  
8 make it explicit that the Borrower is one of the Receivership Entities. The Borrower owns  
9 real property located at 2101-2149 Alum Rock, San Jose, CA (the "Property"). Parkview  
10 is the beneficiary under a deed of trust encumbering the Property to secure a debt in the  
11 original principal amount of \$5,980,000.

12 4. On February 24, 2021, Parkview recorded a Notice of Default with the  
13 Santa Clara County Recorder (the "Notice of Default").

14 5. The Receiver has listed the Property for sale.

15 6. On September 15, 2021, Parkview filed a motion for modification of the  
16 preliminary injunction to permit it to proceed with foreclosure under its deed of trust (the  
17 "Motion"). The Motion is scheduled for a hearing on October 22, 2021, at 10:00 a.m.

18 7. The Receiver and Parkview have reached an agreement to resolve the  
19 Motion by giving the Receiver a period of time in which to market and sell the Property  
20 and Parkview relief from the Receivership Order to exercise its state law remedies if the  
21 Receiver is unable to satisfy the conditions set forth below.

### 22 STIPULATION

23 Based on the foregoing recitals and subject to the approval of this Court, the  
24 Receiver and Parkview stipulate as follows:

25 A. The Receiver shall have until January 31, 2022, to market the Property and  
26 to open escrow for the sale of the Property. If the Property is not in escrow on or before  
27 January 31, 2022, then Parkview shall have relief from the Receivership Order effective  
28 February 1, 2022, to exercise its state law remedies to foreclose against the Property. If

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1 the Property is in escrow by January 31, 2022, then the Receiver shall have until April 30,  
2 2022, to close escrow. If escrow does not close on or before April 30, 2022, then  
3 Parkview shall have relief from the Receivership Order effective May 1, 2022, to exercise  
4 its state law remedies to foreclose against the Property.

5 B. In exchange for the foregoing, the Receiver acknowledges (i) the validity  
6 and enforceability of the Notice of Default ,(ii) agrees that if Parkview has relief from the  
7 Receivership Order to exercise its state law remedies to foreclose against the Property,  
8 Parkview may include in the amounts it is owed default interest at any such foreclosure  
9 sale; and (iii) shall not take any action to stop or enjoin any such foreclosure sale.

10 C. This Stipulation does not resolve, in the event that the Receiver closes a  
11 sale of the Property, disputes, if any, about the amount of Parkview's claim or its  
12 entitlement to default interest against a receivership estate. This Stipulation does not  
13 modify or in any way affect the *Stipulated Order on Motion* that was entered on May 4,  
14 2021, as docket number 122 pursuant to which the Receiver is turning over rents from  
15 the Property to Parkview.

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D. The hearing on the Motion is taken off the Court's calendar.

**IT IS SO STIPULATED.**

DATED: October 12, 2021

COX, CASTLE & NICHOLSON LLP

By: /s/ Randy P. Orlik  
Randy P. Orlik  
Susan S. Davis  
Attorneys for Parkview Financial  
REIT, LP

DATED: October 12, 2021

SMILEY WANG-EKVALL, LLP

By: /s/ Kyra E. Andrassy  
Kyra E. Andrassy  
Attorneys for David Stapleton,  
Receiver

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

DATED:

\_\_\_\_\_  
SUSAN ILLSTON  
United States District Judge

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- Western Alliance Bank  
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**BY U.S. MAIL:**

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