STATE OF NORTH CAROLINA

HENDERSON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
26CV001244-440

FUSE 10, LLC,

Plaintiff,

v.

CEDARS LODGE & SPA, L.L.C. and 719NOMAIN LLC,

Defendants.

ORDER APPOINTING LIMITED RECEIVER

1. This matter is before the Court on Plaintiff Fuse 10, LLC's ("Fuse" or "Lender") Motion for Appointment of Receiver (the "Motion") over Defendants Cedars Lodge & Spa, L.L.C. ("Cedars Lodge") and 719NOMAIN LLC (collectively, "Defendants"). (ECF No. 6.)

2. On 5 June 2026, the Court issued a Notice of Hearing and Scheduling Order, which set the Motion for hearing on 22 June 2026. (ECF Nos. 8, 9.) Defendants filed a Response in Opposition to the Motion on 15 June 2026. (ECF No. 14.)

3. The hearing was attended by counsel for Plaintiff, William L. Esser IV, counsel for Defendants, Paul A. Fanning, and counsel for party in interest Power Design, Gene F. Rash. Other parties in interest listened to the hearing from the courtroom or via videoconference but did not make formal appearances.

4. At the hearing, counsel for Fuse and Defendants announced to the Court that they had reached an agreement for the appointment of a limited receiver. No party or party in interest opposed the appointment of a receiver. Based upon the pleadings in the case, including the Verified Complaint, (ECF No. 3), and the

Affidavit of Brian Gribble, (ECF No. 6.1), as well as the representations of counsel at the hearing and the consent of the parties announced at the hearing, the Court finds that good cause exists to grant the Motion as set forth below:

FINDINGS OF FACT

5. Fuse is a Delaware limited liability company and a private lender.

6. Defendants are North Carolina limited liability companies which own eight tracts of land in Hendersonville, North Carolina, that are being developed as a high-end residential/hotel condominium building. (Verified Compl. ¶¶ 2–4, 8–17, ECF No. 3 [Compl.].)

7. To fund the construction, Defendant Cedars Lodge obtained a $32 million construction loan from Fuse (the "Fuse Loan"). The Fuse Loan was evidenced by multiple loan documents and secured by a first priority lien against Defendants' real estate and personal property. (Compl. ¶¶ 18–25.)

8. Specifically, Defendants own the following tax parcels in Henderson County (collectively the "Real Property"):

REID	**PIN**	**Tax Assessed Value**
101190	9568-79-2254	$228,700
101191	9568-79-0388	$161,400
106969	9568-79-5465	$753,000
112499	9568-79-0293	$9,005,400
116898	9568-79-3224	$418,200
9940383	9568-79-4355	$204,200

106473	9568-79-2457	$434,200
116896	9568-79-2358	$457,400

9. Cedars Lodge also obtained junior financing and took pre-construction deposits from buyers of units at the Real Property. (Compl. ¶¶ 26, 33.)

10. The Fuse Loan matured in December 2025. Defendants have failed to pay the Fuse Loan. (Compl. ¶¶ 27, 36–38.)

11. The building which Defendants were constructing on the Real Property is only partially constructed and has been sitting for months with no construction activity. (Compl. ¶¶ 28–32.)

12. The general contractor for the project sued Cedars Lodge for breach of contract for almost $7 million and has asked for foreclosure to satisfy its claim of lien. (Compl. ¶ 34.) Cedars Lodge has filed an Answer and raised Affirmative Defenses.

13. The partially constructed building on the Real Property is in danger of deterioration and Defendants have not obtained funding to complete the project, despite Lender not exercising its default remedies for almost six months from the time the Fuse Loan matured. (Compl. ¶¶ 38, 44.)

14. N.C. Gen. Stat. § 1-507.24(e) provides that a receiver may be appointed when an entity or individual business debtor meets any of the following criteria, among others:

> (1) the person is insolvent;
> (2) the person is not paying its debts as they become due unless such debts are the subject of a bona fide dispute;
> (3) the person is unable to pay its debts as they become due;

(4) the person is in imminent danger of insolvency; or
(5) the person suspends its business for want of funds.

15. Section 2.01 of the Deed of Trust[1] provides that upon an event of default:

> After the happening of any Event of Default and during its continuance, . . . each of Trustee and Beneficiary shall be entitled, as a matter of right, if it shall so elect, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the Indebtedness, forthwith either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of a receiver or receivers in respect of the Premises and/or other Deed of Trust Property, and Grantor hereby consents to the appointment of such receiver or receivers.

(ECF No. 3.4.)

16. Defendants' Real Property and personal property (the "Collateral") is encumbered by liens in favor of Fuse under the Loan Documents, and Fuse has a first-priority security interest in such property.

17. The parties have consented to the appointment of a limited receiver over the Collateral.

18. The Liberty Solution, LLC ("Liberty" or "Receiver") has agreed to accept its appointment as receiver pursuant to the terms of its proposal to Fuse, and those parties have agreed upon the terms and rate of compensation to Receiver.

19. Liberty has significant experience as a receiver, is qualified to be appointed as a receiver in this matter and has agreed to serve at the pleasure of this Court in accordance with the terms of this Order Appointing Limited Receiver (the "Order").

[1] Capitalized terms used herein that are not otherwise defined shall have the meaning set forth in the Verified Complaint.

20. Neither Receiver nor any insider of Receiver has ever been disqualified from serving as a receiver, convicted of a felony or other crime involving moral turpitude or been found liable in a civil court for fraud, breach of fiduciary duty, civil theft, or similar misconduct.

21. Receiver has no material adverse interest with respect to any party or the Real Property, and has no material financial or pecuniary interest, other than compensation for receivership services, in the outcome of the underlying dispute.

22. Receiver is not a debtor, creditor, lienor of, or holder of any equity interest in, any party in interest or of receivership property.

23. Receiver has not participated in any action that constitutes a violation of N.C. Gen. Stat. § 23-46.

24. Receiver has the financial ability to post the bond required by N.C. Gen. Stat. § 1-507.26 and shall post a bond in the amount of $5,000.00 as a receiver's and surety's bond.

CONCLUSIONS OF LAW

25. The foregoing Findings of Fact are denominated Conclusions of Law to the extent that they constitute the same.

26. Fuse has an apparent right to, and interest in, all of the Collateral, including the Real Property.

27. Fuse is entitled to the appointment of a receiver over the Collateral, including the Real Property, under the provisions of the Loan Documents and N.C. Gen. Stat. § 1-501 et seq. and § 1-507.20 et seq., which appointment allows a receiver,

among other things, to take possession of, manage, operate, and preserve the Collateral as permitted by law and subject to the terms of this Order.

28. A receiver is needed to safeguard the Collateral and determine whether to sell all or any portion of the Collateral free and clear of any and all liens and encumbrances and, if so, to effectuate such a sale subject to approval by this Court.

29. Fuse asserts it will suffer irreparable loss and damage in the form of continued deterioration of its Collateral unless a receiver is appointed.

30. The bond of $5,000.00 to be posted by Receiver is deemed to be sufficient for the faithful performance of the duties of Receiver as described in N.C. Gen. Stat. § 1-507.26 (the "Bond").

31. This Order is entered to protect and preserve Fuse's rights with regard to the Collateral through the appointment of a receiver.

NOW, **THEREFORE**, based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED**, **ADJUDGED**, and **DECREED** that:

32. Liberty is hereby appointed as a limited receiver over the Collateral effective upon the date of entry of this Order.

33. Receiver has all the powers and duties of a limited receiver specified in N.C. Gen. Stat. § 1-507.28(a).

34. Receiver's fees shall be as set forth on Exhibit A attached hereto ("Receiver Fee").

35. Each officer, director, manager, member, partner, trustee, or other person exercising or having the power to exercise control over Defendants (collectively, the "Responsible Parties") shall (a) promptly comply with N.C. Gen. Stat. § 1-507.30 and shall perform the duties set forth therein, in addition to those duties otherwise conferred by statute or order of the Court, (b) reasonably cooperate with the Receiver in the administration of the receivership, and (c) be hereby enjoined from knowingly interfering with the Receiver or its duly appointed agents or representatives in connection with the management or control over the Collateral and from interfering with the operations of the Receiver as herein authorized.

36. The Responsible Parties are hereby **ORDERED** to promptly turn over to the Receiver all Collateral within the Responsible Parties' possession, custody, or control, including, without limitation, access to and control of the Real Property, 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, bank accounts, deposits, keys, books, tax returns, checkbooks, ledgers, accounts payable and accounts receivable records, contracts, agreements, insurance policies and certificates, plans, plats, surveys, appraisals, specifications and drawings, and all other papers and documents related to the receivership property (collectively, the "Receivership Property"). The Receiver shall retain sole and exclusive possession of the Receivership Property until further order of the Court. This obligation of the Responsible Parties to turn over Receivership Property to the Receiver shall be

ongoing and shall apply equally to any Collateral which the Responsible Parties receive or obtain after the entry of this Order.

37. In carrying out the duties contained in this Order, Receiver is authorized, but not required to employ attorneys, contractors, vendors, service providers, and any other persons, firms or corporations necessary or appropriate to the orderly and efficient management and preservation of the Receivership Property. The Receiver is authorized to make interim payments to professionals (subject to Fuse Approval), but all interim payments are subject to Court Approval in connection with the Receiver's final report (as provided by N.C. Gen. Stat. § 1-507.31). "Fuse Approval" means written consent (which may be via e-mail) either directly by Fuse or by Fuse's counsel. "Court Approval" means approval by a specific order of the Court. Provided, however, that the Receiver shall not execute a listing agreement with any real estate brokers to market and sell the Real Property without first obtaining Fuse Approval or a subsequent order of the Court.

38. All persons are restrained and enjoined from interfering with Receiver in the performance of its duties or from soliciting or accepting Defendants' assets or proceeds from any person or entity, except as affirmatively approved by Receiver.

39. All persons are hereby **ORDERED** to turn over to Receiver all receivables, earnings, revenues, rents, issues, profits, royalties, income, deposits, or other sums payable resulting from the Collateral, and are further ordered and directed to turn over to Receiver all warranties, books, records, contracts, insurance policies, leases,

and other documents and records relating to the Collateral, or the management, operation, protection, maintenance, and/or preservation thereof.

40. Subject to Fuse Approval, Receiver is hereby authorized to advertise for sale and to solicit offers to purchase the Real Property and Defendants' other assets, to enter into a contract to sell the Real Property and Defendants' other assets, and to sell, following notice and a hearing, the Real Property and Defendants' other assets, on such terms as are acceptable and approved in writing prior to such sale by Fuse, by way of public or private sale or other disposition free and clear of all security interests, liens, claims and other interests with all valid security interests and liens to attach to the proceeds of such sale. Receiver is further authorized to execute any documentation on behalf of Defendants as its attorney-in-fact to effectuate such sale(s), including, but not limited to, contracts for sale and purchase of the Real Property (in a form approved by Fuse in writing). Without limiting the generality of Receiver's rights set forth above in this paragraph, Fuse shall be permitted, from time to time, to contact any party or parties which may have an interest in purchasing the Real Property or which have made any proposal to purchase the Real Property and to discuss and negotiate the terms of such offer provided that Fuse shall report the nature and content of such discussions and negotiations to Receiver and Cedars Lodge periodically, and no such contact, discussion or negotiation with such party or parties shall render or cause or shall be deemed to render or cause Fuse to be a mortgagee in possession of the Real Property or otherwise subject Fuse to any liability under the Loan Documents or otherwise.

41. Fuse from time-to-time may (but is not required) to advance funds to Receiver in an amount sufficient to pay the expenses of the Receiver (including expenses related to the Collateral) as and when they come due, which advances shall be deemed advances under the Note, shall be secured by the Collateral under the terms of the Note, Deed of Trust, and other Loan Documents and shall accrue interest at the Default Rate (as defined in the Loan Documents). Receiver shall not be liable for Defendants' claims, debts, obligations, actions, causes of action, costs, debts or expenses. Liabilities incurred by Receiver in its capacity as receiver shall be liabilities of the receivership estate and not liabilities of Receiver or its employees or agents, as long as Receiver acts in accordance with this Court's Order. Nothing herein shall obligate Receiver to pay any existing or pre-receivership debts or expenses; provided, however, that Receiver may pay such expenses if (a) the Receiver determines it is in the best interest of the receivership estate to pay such expenses; and (b) it obtains Fuse Approval for any expense in excess of $1,000.00.

42. The Bond to be posted by Receiver in the amount of $5,000.00 satisfies the requirements of N.C. Gen. Stat. § 1-507.26. Receiver is hereby authorized to act before Receiver posts the Bond, as described in § 1-507.26(b).

43. As described in N.C. Gen. Stat. § 1-507.32, Defendants shall file under oath within 60 days from entry of this Order, schedules of receivership property, creditors, taxing authorities and regulatory authorities.

44. As described in N.C. Gen. Stat. § 1-507.35, Receiver shall prepare and file interim reports every other month following the filing of schedules. Such reports

shall address (i) the activities of the Receiver since appointment or last report, (ii) receipts and disbursements, including payments made to professionals retained by the Receiver, and (iii) efforts to market and sell the Collateral.

45. As described in N.C. Gen. Stat. § 1-507.49, Receiver is authorized, but not directed, to treat claims as allowed claims based on the amounts established in the books and records of the debtor or the schedule of claims filed pursuant to N.C. Gen. Stat. § 1-507.32, without the necessity of the filing of proofs of claim. Absent further order of this Court, no proofs of claim are to be filed in this case.

46. Any powers granted to Receiver pursuant to this Order which exceed the powers specifically enumerated within the North Carolina Commercial Receivership Act (the "Act"), and any duties of Receiver limited pursuant to this Order shall be deemed so granted or limited pursuant to N.C. Gen. Stat. § 1-507.28(d). In the event of a conflict between the scope of the powers and duties of Receiver described in the Act and the powers and duties described in this Order, the terms of this Order shall control.

47. Notwithstanding anything to the contrary in this Order or the North Carolina statutes, Receiver shall have no obligation to take any action for which funds are not available from the Collateral or from protective advances made by Lender. Under no circumstances shall Receiver be obligated to advance any of its own funds in connection with this Order (other than the amount for the Bond).

48. Upon termination of the receivership, Receiver shall retain sufficient funds to pay its final bills and expenses. In the event that funds on hand at the time of

termination are insufficient, Fuse shall fund the shortfall by advancing such amount, provided that any such amounts advanced by Fuse from time to time shall be an obligation of the Defendants, shall accrue interest at the Default Rate and shall be secured by the Deed of Trust. After filing a final accounting and upon motion to this Court, Receiver shall be fully discharged and released, and the Bond shall be released pursuant to further order of this Court.

49. The automatic stay of N.C. Gen. Stat. § 1-507.42(c) shall be effective immediately upon entry of this Order. In addition, in the Court's discretion pursuant to N.C. Gen. Stat. § 1-507.42(b) and to facilitate the administration of the receivership, the stay of N.C. Gen. Stat. § 1-507.42(d) shall apply in the first 90 days of the receivership. In accordance with N.C. Gen. Stat. § 1-507.42(f)(7), the stay provided herein shall not prevent any person from filing a proof of claim and notice of lis pendens in accordance with N.C. Gen. Stat. § 44A-13 in order to preserve any lien rights which they may assert.

50. This Order and the relief granted herein is without prejudice to any and all claims for relief that Fuse may have against Defendants, any of Defendants' affiliates, any guarantors of the debt owed to Fuse, or others arising out of the Loan Documents or at law, including, but not limited to, separate legal or equitable claims and causes of action that might otherwise have been brought with this action.

SO ORDERED, this the 24th day of June, 2026.

/s/ A. Graham Shirley
A. Graham Shirley
Special Superior Court Judge
for Complex Business Cases

EXHIBIT A

Receiver One-Time Intake fee / Startup costs - $7,500.00

Hourly rate fees for work after initial startup at the following rates:

- Partner - $250.00 / hour
- Principal - $200.00 / hour
- Associate - $150.00 / hour
- Accountant - $125.00 / hour
- Administrative Assistant - $75.00 / hour