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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DIRECT LENDING INVESTMENTS
LLC,

Defendant.

Case No.: 2:19-cv-02188-DSF-MRW

**ORDER
(1) PRELIMINARILY
APPROVING DUFF & PHELPS,
LLC (N/K/A KROLL, LLC)
SETTLEMENT; (2) SETTING
SCHEDULE; (3) APPROVING
FORM OF FINAL APPROVAL
ORDER; AND (4) APPROVING
FORM AND/OR LIMITATION
OF NOTICE OF MOTION
UNDER LOCAL CIVIL RULE 66-
7 (Dkt. 942)**

1 Before the Court is the Motion of Receiver for Order: (i) Preliminarily
2 Approving Settlement with Duff & Phelps, LLC (n/k/a Kroll, LLC); (ii) Setting
3 the Schedule for Objections and Final Approval Hearing; and (iii) Approving the
4 Form of Order Finally Approving the Settlement with Duff & Phelps, LLC (n/k/a
5 Kroll, LLC); and (iv) Approving the Form and/or Limitation of Notice of Motion
6 Under Local Rule 66-7 (the “Motion”).

7 The Motion concerns a proposed settlement among and between, on the
8 one hand, (a) Bradley D. Sharp, in his capacity as the Court-appointed Receiver
9 (the “Receiver”) for the estate of Direct Lending Investments, LLC, Direct
10 Lending Income Fund, L.P., Direct Lending Income Feeder Fund, Ltd., DLI
11 Capital, Inc., DLI Lending Agent, LLC, DLI Assets Bravo LLC (in Receivership)
12 (collectively, the “Receivership Entities”); (b) Bradley D. Sharp and Christopher
13 D. Johnson, in their capacities as Joint Official Liquidators (“JOLs”) of Direct
14 Lending Income Feeder Fund, Ltd. (in official liquidation) (“DLIFF”) (DLIFF,
15 together with the Receivership Entities, the “DLI Entities”); (c) investors in the
16 DLI Entities (“Investors”) that participated in the mediation and identified in
17 Exhibit A to the Confidential Settlement Agreement and Release (“Party
18 Investors”) (specifically, those Investors represented by Levine Kellogg Lehman
19 Schneider + Grossman LLP, The Meade Firm P.C., and Reiser Law P.C.,
20 including those who are plaintiffs in the action *Andrew Baer, et al. v. Duff &*
21 *Phelps, LLC, et al.*, No. 22-CV-00994 (JMF) (S.D.N.Y.) (consolidated) (the
22 “Century Group”); those Investors represented by Nystrom Beckman & Paris
23 LLP, including those who were plaintiffs in the action *Alfred Jackson, et al. v.*
24 *Duff & Phelps, LLC*, 651831/2021 (N.Y. Supr. Ct.) (the “Jackson Group”); those
25 Investors represented by Bragar, Eigel & Squire, P.C., including those who are
26 plaintiffs in the action *Andrew Baer, et al. v. Duff & Phelps, LLC, et al.*, No. 22-
27 CV-00994 (JMF) (S.D.N.Y.) (consolidated) (the “Baer Group”); and, on the
28

1 other hand, (d) Duff & Phelps, LLC (n/k/a Kroll, LLC) (the “Kroll Entities”).¹
2 The Receiver, JOLs, the DLI Entities, the Party Investors, and the Kroll Entities
3 are referred to as the “Parties.”

4 The terms of the Settlement are contained in the Confidential Settlement
5 Agreement and Release (“Settlement Agreement”) attached as Exhibit 1 to the
6 Declaration of Bradley D. Sharp in support of the Motion. Capitalized terms not
7 otherwise defined in this order shall have the meaning assigned to them in the
8 Settlement Agreement.

9 The Receiver seeks the Court’s approval of the terms of the Settlement
10 Agreement, including entry of a final order approving the Settlement (“Final
11 Approval Order”). After reviewing the terms of the Settlement Agreement and
12 considering the arguments presented in the Motion, the Court preliminarily
13 approves the Settlement Agreement as adequate, fair, and reasonable.
14 Accordingly, the Court enters this Preliminary Approval Order to: (i) provide for
15 notice of the terms of the Settlement Agreement, including the proposed Final
16 Approval Order; (ii) set the deadline for filing objections to and opting out of the
17 Settlement Agreement and the Final Approval Order; (iii) set the deadline for
18 responding to any objection so filed; and (iv) set the date of the final approval
19 hearing regarding the Settlement Agreement and the Final Approval Order (the
20 “Final Approval Hearing”), as follows:

21 1. Preliminary Findings on the Settlement Agreement: Based on the
22 Court’s review of the terms of the Settlement Agreement, the arguments

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24 ¹ “Kroll” or “Kroll Entities” refers to Duff & Phelps, LLC (n/k/a Kroll, LLC),
25 and each of their respective Subsidiaries, parents, Affiliates, divisions, joint
26 venturers, contractors, subcontractors, subrogees, offices, controlled Persons,
27 predecessors, successors, assignors, assigns, transferees, heirs, executors,
28 shareholders, owners, investors, accountants, auditors, advisors, employees,
trustees, fiduciaries, consultants, agents, representatives, nominees, attorneys,
partners, associates, counsel, managers, and members, directors and officers, in
each case individually and collectively, together with each and any of their
respective predecessors and successors in interest.

1 presented in the Motion, the Court preliminarily finds that the Settlement
2 Agreement is fair, reasonable, and adequate, *U.S. v. Edwards*, 595 F.3d 1004,
3 1012 (9th Cir. 2010); and resulted from vigorous, good faith, arm’s length,
4 mediated negotiations involving experienced and competent counsel. The Court,
5 however, reserves a final ruling with respect to the terms of the Settlement
6 Agreement until after the Final Approval Hearing referred to below in Paragraph
7 2.

8 2. Final Approval Hearing: The Final Approval Hearing will be held
9 before the Honorable Dale S. Fischer of the United States District Court for the
10 Central District of California, First Street Courthouse, 350 West 1st Street, Los
11 Angeles, California 90012, in Courtroom 7D, at 1:30 p.m. on November 4, 2024,
12 which is a date at least 60 calendar days after entry of this Preliminary Approval
13 Order. The purpose of the Final Approval Hearing will be to: (i) determine
14 whether the terms of the Settlement Agreement should be finally approved by the
15 Court; (ii) determine whether the Final Approval Order attached as Exhibit E to
16 the Settlement Agreement should be entered by the Court; (iii) rule on any
17 objections to the Settlement Agreement or the Final Approval Order; and (v) rule
18 on such other matters as the Court may deem appropriate.

19 3. Notice: The Court approves the form and substance of the Notice
20 of Settlement attached as Exhibit C to the Settlement Agreement, the Notices of
21 Settlement and Right of Exclusion from Settlement (the “Opt-out Notices”)
22 attached as Exhibits H and I to the Settlement Agreement, and finds that the
23 methodology, distribution, and dissemination of these notices: (i) constitute the
24 best practicable notice; (ii) are reasonably calculated, under the circumstances, to
25 apprise all Persons who may have a Released Claim against the Released Kroll
26 Entities (specifically the Interested Parties²), of the Settlement Agreement, and
27

28 ² Interested Parties means, collectively, all parties to this SEC Action, all known
creditors, all known Investors of DLI Entities, all Claimants, and, to the extent

1 the releases therein; (iii) are reasonably calculated, under the circumstances, to
2 apprise all Interested Parties of the right to object to the Settlement Agreement
3 and the Order Approving Settlement, and the right of Investors to opt out of the
4 Settlement, and to appear at the Final Approval Hearing; (iv) constitute due,
5 adequate, and sufficient notice; (v) meet all requirements of applicable law,
6 including the Federal Rules of Civil Procedure, the United States Constitution
7 (including Due Process), and the Rules of the Court; and (vi) will provide to all
8 Persons a full and fair opportunity to be heard on these matters. The Court further
9 approves the form and substance of the Publication Notice attached as Exhibit D
10 to the Settlement Agreement. Therefore:

11 a. The Receiver is directed, no later than seven calendar days
12 after entry of this Preliminary Approval Order, to cause the Notice of
13 Settlement in substantially the same form attached as Exhibit C to the
14 Settlement Agreement to be sent via electronic mail, first class mail, or
15 international delivery service to all Interested Parties.

16 b. The Receiver is directed, no later than seven calendar days
17 after entry of this Preliminary Approval Order, to cause the appropriate
18 Opt-out Notice(s) in substantially the same form attached as Exhibit H or
19 I to the Settlement Agreement to be sent via electronic mail, first class
20 mail, or international delivery service to all known Investors of DLI
21 Entities.

22 c. The Receiver is directed, no later than seven calendar days
23 after entry of this Preliminary Approval Order, to cause the Publication
24 Notice in substantially the same form attached as Exhibit D to the
25 Settlement Agreement to be published twice in the national edition of *The*
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27 _____
28 not already included in the foregoing, Opus Fund Services (USA) LLC, Opus
Fund Services (Bermuda) Ltd., EisnerAmper, LLP, and Deloitte & Touche LLP.

1 *Wall Street Journal*, twice in the international edition of *The New York*
2 *Times*, and once in *The Los Angeles Times*.

3 d. The Receiver is directed, no later than seven calendar days
4 after entry of this Preliminary Approval Order, to cause the Settlement
5 Agreement, the Motion, this Preliminary Approval Order, the Notice
6 (Exhibit C to the Settlement Agreement), the Opt-out Notices (Exhibits H
7 and I to the Settlement Agreement) and all exhibits and appendices
8 attached to these documents, to be posted on the Receiver's website
9 (<http://case.stretto.com/dli>).

10 e. The Receiver is directed promptly to provide the Settlement
11 Agreement, the Motion, this Preliminary Approval Order, the Notice of
12 Settlement, and the Opt-out Notices, and all exhibits and appendices
13 attached to these documents, to any Person who requests such documents
14 via e-mail to TeamDLI@stretto.com; or by telephone, by calling the
15 Stretto Administrator at 855-885-1564. The Receiver may provide such
16 materials in the form and manner that the Receiver deems most appropriate
17 under the circumstances of the request.

18 f. No less than ten calendar days before the Final Approval
19 Hearing, the Receiver shall cause to be filed with the Clerk of this Court
20 written evidence of compliance with subparts (a) through (d) of this
21 Paragraph, which may be in the form of an affidavit or declaration.

22 4. Objections and Appearances at the Final Approval Hearing: Any
23 Person who wishes to object to the terms of the Settlement Agreement or the
24 Final Approval Order, or who wishes to appear at the Final Approval Hearing,
25 must do so by emailing a written objection to TeamDLI@stretto.com, no later
26 than October 14, 2024. All objections must:

27 a. contain the name, address, telephone number, and an e-mail
28 address of the Person filing the objection;

- 1 b. contain the name, address, telephone number, and e-mail
- 2 address of any attorney representing the Person filing the objection;
- 3 c. be signed by the Person filing the objection, or his or her
- 4 attorney;
- 5 d. state, in detail, the basis for any objection;
- 6 e. attach any document the Court should consider in ruling on
- 7 the Settlement Agreement and the Final Approval Order; and
- 8 f. if the Person objecting wishes to appear at the Final Approval
- 9 Hearing, make a request to do so.

10 The Receiver is directed to compile all objections submitted into a single

11 pleading and file them with the Court no later than October 21, 2024.

12 Any Person submitting an objection shall be deemed to have submitted to

13 the jurisdiction of this Court for all purposes of that objection, the Settlement

14 Agreement, and the Final Approval Order. Potential objectors who do not present

15 opposition by the time and in the manner set forth above shall be deemed to have

16 waived the right to object (including any right to appeal) and shall be forever

17 barred from raising such objections in this action or any other action or

18 proceeding. Persons do not need to appear at the Final Approval Hearing or take

19 any other action to indicate their approval. The Court may decline to permit

20 anyone who fails to file a written objection and request to appear at the Final

21 Approval Hearing as set forth in subparts (a) through (f) of this paragraph to

22 appear at the Final Approval Hearing. The Court will exercise discretion as to

23 whether it wishes to hear from any Person who fails to make a timely written

24 objection and request to appear.

25 5. Requests for Exclusion: Any Investor who wishes to be excluded

26 from the Settlement must send a written letter request for exclusion from the

27 Settlement by e-mail to TeamDLI@stretto.com, no later than October 14, 2024,

28 and the written letter must:

1 a. contain the name, address, telephone number, and e-mail
2 address of the Investor who wishes to be excluded from the Settlement;

3 b. be signed by the Investor who wishes to be excluded from the
4 Settlement.

5 6. Responses to Objections: Any Party to the Settlement Agreement
6 may respond to an objection filed pursuant to Paragraph 4 by filing a response in
7 this SEC Action no later than October 28, 2024. To the extent any Person
8 emailing an objection cannot be served by action of the Court's CM/ECF system,
9 a response must be served to the e-mail and/or mailing address provided by that
10 Person.

11 7. Adjustments Concerning Hearing and Deadlines: The date, time,
12 and place for the Final Approval Hearing, and the deadlines and date
13 requirements in this Preliminary Approval Order, shall be subject to adjournment
14 or change by this Court without further notice other than that which may be
15 posted by means of ECF. If no objections are timely filed or if the objections are
16 resolved prior to the Final Approval Hearing, the Court may cancel and proceed
17 without a Final Approval Hearing.

18 8. Use of Order: Under no circumstances shall this Preliminary
19 Approval Order be construed, deemed, or used as an admission, concession, or
20 declaration by or against the Kroll Entities of any fault, wrongdoing, breach or
21 liability. Neither this Preliminary Approval Order, nor the proposed Settlement
22 Agreement, or any other settlement document, shall be filed, offered, received in
23 evidence, or otherwise used in these or any other actions or proceedings or in any
24 arbitration, except to give effect to or enforce the Settlement Agreement or the
25 terms of this Preliminary Approval Order.

26 9. Final Approval Order: The Court preliminarily approves the form
27 and substance of the Final Approval Order attached as Exhibit E to the Settlement
28 Agreement. If the Settlement is approved by the Court following the Final

1 Approval Hearing, a Final Approval Order will be entered as described in the
2 Settlement Agreement in substantially the form as Exhibit E.

3 10. Notice on the Motion: The form of notice on the Motion provided
4 to interested parties, creditors, and Investors, who are potential creditors of the
5 estate, by the Receiver (a) serving the Motion and related moving papers on all
6 parties to the action; (b) serving by mail a notice of hearing on the Motion to all
7 known creditors pursuant to Local Civil Rule 66-7; (c) posting a copy of the
8 Motion on the Receiver's website for the case at <https://cases.stretto.com/dli>; and
9 (d) causing Bankruptcy Management Solutions dba Stretto to provide by e-mail
10 a copy of the notice of hearing on the Motion to all known Investors through its
11 e-mail service regularly used to provide notices and documents to Investors
12 pursuant to the applicable governing documents for Direct Lending Income Fund,
13 L.P. and Direct Lending Income Feeder Fund, Ltd., is hereby approved and
14 deemed sufficient notice and opportunity for hearing on the Motion under the
15 circumstances.

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17 IT IS SO ORDERED.

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19 DATED: August 16, 2024



20 DALE S. FISCHER
21 United States District Judge
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