UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:	: Case No. 25-22156 (ABA)
	: Chapter 11
Skyline Tower Resort Vacation, Condominium Association, Inc.,[1]	:
	: The Honorable Andrew B. Altenburg Jr.
Debtor.	: Hearing Date: June 18, 2026 @ 10:00 am

OBJECTION OF THE UNITED STATES TRUSTEE TO DEBTOR'S MOTION FOR AN ORDER DETERMINING DEBTOR IS IN COMPLIANCE WITH OR ALTERNATIVELY WAIVING REQUIREMENTS OF 11 U.S.C. § 345(b) REGARDING DEBTOR'S MERRILL LYNCH ACCOUNTS

Andrew R. Vara, the United States Trustee for Regions 3 & 9 (the "United States Trustee"), by and through his undersigned attorney, hereby files this objection (the "Objection") to Debtor's *Motion For an order Determining Debtor is in Compliance with or Alternatively Waiving Requirements of 11 U.S.C. § 345(b) Regarding Debtor's Merrill Lynch Accounts* (the "Motion") (Dkt. 221).[2] In support of the Objection, the United States Trustee respectfully states:

Jurisdiction

1. This Court has jurisdiction to hear and determine this Objection.

[1] The last four digits of Debtor's tax identification number is 5824. Debtor's primary place of business is 100 S. North Carolina Ave., Atlantic City, NJ 08401.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

2. Under (i) 28 U.S.C. § 1334, (ii) applicable order(s) of the United States District Court for the District of New Jersey issued pursuant to 28 U.S.C. § 157(a), and (iii) 28 U.S.C. § 157(b)(2), this Court has jurisdiction to hear and determine the Debtor's request for approval of the relief requested in the Motion and the matters raised in this Objection.

3. The U.S. Trustee is charged with overseeing the administration of chapter 11 cases filed in this judicial district, pursuant to 28 U.S.C. § 586. This duty is part of the U.S. Trustee's overarching responsibility to enforce the bankruptcy laws as written by Congress and interpreted by the courts to guard against abuse and over-reaching to assure fairness in the process and adherence to the provisions of the Bankruptcy Code. *See In re United Artists Theatre Co.*, 315 F.3d 217, 225 (3d Cir. 2003) ("U.S. Trustees are officers of the Department of Justice who protect the public interest by aiding bankruptcy judges in monitoring certain aspects of bankruptcy proceedings."); *United States Trustee v. Columbia Gas Sys., Inc. (In re Columbia Gas Sys., Inc.),* 33 F.3d 294, 298 (3d Cir. 1994) ("It is precisely because the statute gives the U.S. Trustee duties to protect the public interest . . . that the Trustee has standing to attempt to prevent circumvention of that responsibility."); *Morgenstern v. Revco D.S., Inc. (In re Revco D.S., Inc.)*, 898 F.2d 498, 499 (6th Cir. 1990) ("As Congress has stated, the U.S. trustees are responsible for protecting the public interest and ensuring that the bankruptcy cases are conducted according to [the] law").

4. Under section 307 of title 11 of the United States Code (the "Bankruptcy Code" or "Code"), the U.S. Trustee has standing to be heard on the Debtor's request for approval of the relief in the Motion.

Background

A. The Bankruptcy Case.

5. On November 15, 2025 (the "Petition Date"), Skyline Tower Resort Vacation Condominium Association, Inc. (the "Debtor"), filed a voluntary petition for relief under subchapter V of chapter 11 of title 11, United States Code. *See* Dkt. 1.

6. Since the Petition Date, the Debtor has remained in possession of its property and management of its affairs. The United States Trustee has not appointed an unsecured creditor committee in this case.

7. On December 1, 2025, the U.S. Trustee appointed Holly Smith Miller as subchapter V trustee in this case. *See* Dkt. 48.

B. The Non-Compliant Accounts.

8. On December 19, 2025, the Debtor filed its schedules and statement of financial affairs. *See* Dkt. 71.

9. Pursuant to the schedules, the Debtor disclosed the ownership of three (3) accounts with Merrill Lynch in the amounts of $12,493.87 (account ending 2143), $1,637,610.06 (account ending 2678), and $2,867,851.59 (account ending 7817) (the "Non-Compliant Accounts"). *See* Dkt. 71 at page 2 of 31. As set forth by the Debtor, a separate operating account at Bank of America is with an authorized depository with the Office of the U.S. Trustee for Region 3. *See* Dkt. 221-2 at page 36 of 69. The Non-Compliant Accounts are not with an authorized depository with the Office of the U.S. Trustee for Region 3. *See* Dkt. 221-4 at page 2 of 9.

10. Pursuant to the last monthly operating report filed by the Debtor, as of April 30, 2026, the Debtor continues to maintain the Non-Compliant Accounts at Merrill Lynch in the

amounts of $21.15 (account ending 2143), $1,500,833.55 (account ending 2678), and $1,208,467.05 (account ending 7817). *See* Dkt. 225.

C. The Cash Management Orders.

11. On November 21, 2025, the Court entered an *Interim Order Granting Debtor's Emergency Motion For Interim and Final Orders (i) Authorizing the Debtor to (a) Continue to Use the Existing Cash Management System, (b) Maintain Bank Accounts and Continue Use of Existing Business Forms and Checks, and (c) Honor Certain Related Prepetition and Postpetition Obligations; (ii) Determining Compliance With, or Granting a Waiver of, Certain Investment and Deposit Guidelines; and (iii) Granting Related Relief* (the "First Interim Order"). *See* Dkt. 27. Pursuant to the First Interim Order, the Debtor agreed to come into compliance with section 345(b) of the Bankruptcy Code within thirty (30) days from the Date of the First Interim Order or make such other arrangements as agreed to by the U.S. Trustee or approved by the Court: "To the extent any bank account is not in compliance with section 345(b) of the Bankruptcy Code or any of the U.S. Trustee's requirements or guidelines, the Debtor shall have until a date that is thirty (30) days from the date of this Interim Order, without prejudice to seeking additional extensions, to either come into compliance with section 345(b) of the Bankruptcy Code and any of the U.S. Trustee's requirements or guidelines or to make such other arrangements as are agreed to by the U.S. Trustee or approved by the Court. The Debtor may obtain a further extension of the thirty (30) day period referenced above by written agreement of the U.S. Trustee and filing such agreement on the Court's docket without the need for further Court order." *See id.*

12. On December 18, 2025, the Court entered a *Second Interim Order Granting Debtor's Emergency Motion For Interim and Final Orders (i) Authorizing the Debtor to (a) Continue to Use the Existing Cash Management System, (b) Maintain Bank Accounts and Continue*

Use of Existing Business Forms and Checks, and (c) Honor Certain Related Prepetition and Postpetition Obligations; (ii) Determining Compliance With, or Granting a Waiver of, Certain Investment and Deposit Guidelines; and (iii) Granting Related Relief (the "Second Interim Order"). *See* Dkt. 62.

13. On January 20, 2026, the Court entered a *Third Interim Order Granting Debtor's Emergency Motion For Interim and Final Orders (i) Authorizing the Debtor to (a) Continue to Use the Existing Cash Management System, (b) Maintain Bank Accounts and Continue Use of Existing Business Forms and Checks, and (c) Honor Certain Related Prepetition and Postpetition Obligations; (ii) Determining Compliance With, or Granting a Waiver of, Certain Investment and Deposit Guidelines; and (iii) Granting Related Relief* (the "Third Interim Order"). *See* Dkt. 102.

14. On February 26, 2026, the Court entered a *Fourth Interim Order Granting Debtor's Emergency Motion For Interim and Final Orders (i) Authorizing the Debtor to (a) Continue to Use the Existing Cash Management System, (b) Maintain Bank Accounts and Continue Use of Existing Business Forms and Checks, and (c) Honor Certain Related Prepetition and Postpetition Obligations; (ii) Determining Compliance With, or Granting a Waiver of, Certain Investment and Deposit Guidelines; and (iii) Granting Related Relief* (the "Fourth Interim Order"). *See* Dkt. 159.

15. On April 1, 2026, the Court entered a *Fifth Interim Order Granting Debtor's Emergency Motion For Interim and Final Orders (i) Authorizing the Debtor to (a) Continue to Use the Existing Cash Management System, (b) Maintain Bank Accounts and Continue Use of Existing Business Forms and Checks, and (c) Honor Certain Related Prepetition and Postpetition Obligations; (ii) Determining Compliance With, or Granting a Waiver of, Certain Investment and Deposit Guidelines; and (iii) Granting Related Relief* (the "Fifth Interim Order"). *See* Dkt. 175.

16. On May 11, 2026, the Court entered a *Sixth Interim Order Granting Debtor's Emergency Motion For Interim and Final Orders (i) Authorizing the Debtor to (a) Continue to Use the Existing Cash Management System, (b) Maintain Bank Accounts and Continue Use of Existing Business Forms and Checks, and (c) Honor Certain Related Prepetition and Postpetition Obligations; (ii) Determining Compliance With, or Granting a Waiver of, Certain Investment and Deposit Guidelines; and (iii) Granting Related Relief* (the "Sixth Interim Order"). *See* Dkt. 215.

D. The Motion.

17. On May 14, 2026, the Debtor filed the Motion seeking an order from the Court providing that it was in compliance with section 345(b) of the Bankruptcy Code or a waiver the requirements of section 345(b) of the Bankruptcy Code. *See* Dkt. 221. For the reasons set forth below, the Motion should be denied as the Debtor is not in compliance with section 345(b) of the Bankruptcy Code and has not established "cause" for the Court to waive the requirements under section 345(b) of the Bankruptcy Code.

Argument

A. Statutory Framework.

18. Section 345(b)[3] of the Bankruptcy Code imposes certain requirements as to where estate funds can be held in order to protect the funds for the benefit of all creditors. Unless a

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[3] Bankruptcy Code § 345(b) provides that:

(b) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

(1) a bond—

(A) in favor of the United States;

(B) secured by the undertaking of a corporate surety approved by the United States trustee for the district in which the case is pending; and

(C) conditioned on—

deposit or investment is insured or guaranteed by the United States (or a federal department, agency, or instrumentality) or backed by the full faith and credit of the United States, the trustee or debtor in possession must require from an entity with whom estates funds are deposited to post a bond in favor of the United States or, in the alternative, deposit securities of the type specified in section 9303 of title 31 of the United States Code as security for the investment or deposit. *See* 11 U.S.C. § 345(b).

19. Section 345(a) of the Bankruptcy Code requires the trustee or a debtor in possession to deposit or invest money of the estate so that it will result in the "maximum reasonable net return. . . [while] taking into account the safety of such deposit or investment." Section 345(b) requires that estate funds be deposited or invested so as to ensure that the funds are protected for the benefit of creditors. *See* 11 U.S.C. § 345(b). A court may waive the requirements of section 345(b) upon the showing of "cause." *Id.*

20. Section 345(b) is necessary to protect estate property, and to provide the appropriate oversight of the Debtor's post-petition financial transactions as contemplated and required by the chapter 11 process.

21. Generally, unless the funds are insured or guaranteed by the United States or one of its agencies or backed by the full faith and credit of the United States, the institution holding the estate funds must post a bond in favor of the United States or, in the alternative, deposit securities pursuant to 31 U.S.C. § 9303 as security. To ensure that trustees and debtors in

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(i) a proper accounting for all money so deposited or invested and for any return on such money;

(ii) prompt repayment of such money and return; and

(iii) faithful performance of duties as a depository; or

(2) the deposit of securities of the kind specified in section 9303 of title 31; unless the court for cause orders otherwise.

possession meet their responsibilities to safeguard funds in accordance with section 345, the United States Trustee monitors fiduciaries and depositories, and requires that chapter 11 estate assets be held in debtor-in-possession accounts at "authorized depositories," *i.e.*, those that have entered into a Uniform Depository Agreement ("UDA") with the U.S Trustee. *See* Manual, §§ 7-1.1 – 7-1.2.

22. The UDA between a depository and the U.S. Trustee requires the depository to maintain collateral, unless an order of the bankruptcy court provides otherwise, in an amount of no less than 115 percent of the aggregate bankruptcy funds on deposit in each bankruptcy estate that exceeds the FDIC insurance limit. *See* Manual, § 7- 1.2.1. Pursuant to the UDA, each authorized depository is required to provide quarterly reports for all bankruptcy estate accounts on deposit at all branches of the depository within the district. *See* Manual, § 7- 1.3.2.

23. Pursuant to the U.S. Trustee's responsibilities under 11 U.S.C. § 345 and 28 U.S.C. § 586, the U.S. Trustee has entered into UDAs with multiple financial institutions. The UDA requires the signatory bank to collateralize or obtain a surety bond for all estate monies exceeding FDIC insurance limits, pursuant to section 345(b) of the Bankruptcy Code. The UDA also requires banks to provide the U.S. Trustee with reports of all accounts that a debtor maintains at the bank on a quarterly basis.

24. The UDA also aims to safeguard estates monies on deposit at UDA banks if those banks encounter difficulties during a case. Specifically, the UDA makes all estate monies on deposit immediately due and payable if the depository bank fails, suspends active operations or becomes insolvent, or if a receiver, conservator or liquidator is appointed for the bank.

B. ***Review of the Non-Compliant Accounts.***

25. At the time the schedules were filed, the Debtor had $4,517,955.52 in the Non-Compliant Accounts. *See* Dkt. 71 at page 2 of 31. As of April 30, 2026, the Debtor had $2,709,321.75 in the Non-Compliant Accounts. *See* Dkt. 225. It appears that the Non-Compliant Accounts have fluctuated since the schedules were filed. The April 2026 statement for account ending 7817 shows a year-to-date loss of $13,703.54. *See id.* The December 2025 statement for account ending 7817 shows a year-to-date gain of $26,382.83. The April 2026 statement for account ending 2678 shows a year-to-date loss of $7,304.12. *See id.* The December 2025 statement for account ending 7817 shows a year-to-date gain of $15,270.85. It is clear from the monthly operating reports that the Non-Compliant Accounts are volatile as they have lost funds as well as gained funds since the schedules were filed.

26. Despite the volatility of the Non-Compliant Accounts, the Debtor argues that section 345(b) of the Bankruptcy Code should be waived because the Debtor's Investment Guidelines require "investments only in certain specific, safe investments with the stated goal of insuring (a) safety of principal, (b) adequacy of liquidity, and (c) maximization of yields (in order of importance.)" *See* Dkt. 221-4 at page 2 of 9. In addition, the Debtor argues that "such investments substantially comply with the requirements of Bankruptcy Code Section 345(b) because the U.S. Treasury notes are backed by the full faith and credit of the United States." *See id.*

C. ***The Debtor Has Not Established Cause for Relief from 11 U.S.C. § 345(b).***

27. Section 345(b) provides that the Court may exercise its discretion to waive the requirements under 345(b), but only for cause. Here, the Motion before the Court fails to establish such cause.

28. The Motion does not adequately address how the funds held in the Non-Compliant Accounts are safeguarded in accordance with the intents and purposes of section 345(b), or are otherwise protected from a risk of loss to the bankruptcy estate. Instead, the Debtor provides that "…the other three Bank Accounts are with a large, well capitalized Bank, at which the Debtor invests its funds in either: (a) United States government securities (or securities that are backed by the full faith and credit of the United States), or (b) certificates of deposit at FDIC insured banks, with account balances less than the $250,000 FDIC insurance limit." *See* Dkt. 221-4 at page 6 of 9.

29. The purpose of section 345(b) is to protect funds of a bankruptcy estate from loss; that is a simple, yet profound purpose, contained in the Bankruptcy Code for the benefit of all creditors. With regard to the Non-Compliant Accounts, the funds held in such Non-Compliant Accounts do not appear to be bonded, insured, or otherwise protected; thus, such Non-Compliant Accounts stand exposed to a risk of loss. In fact, as set forth in the most recent monthly operating report, the Non-Compliant Accounts have lost money year-to-date for 2026. *See* Dkt. 225. The bankruptcy estate, and its creditors, should not shoulder that risk.

30. An additional concern stems from a lack of reporting of the Non-Compliant Accounts. Merrill Lynch is not required to collateralize the Non-Compliant Accounts and is not obligated to provide reporting concerning the Non-Compliant Accounts to the U.S. Trustee. As such, the Non-Compliant Accounts would not be subject to monitoring. If permitted to continue in its current form, the sums held in the Non-Compliant Accounts would continue without the necessary monitoring, oversight and ability to safeguard the funds. In addition, the funds in the Non-Compliant Accounts are in excess of the FDIC insurance limit and the funds in excess of such limit, are likewise not protected.

31. For these reasons, the U.S. Trustee respectfully asserts that, as presented, the Motion does not establish cause to waive the requirements of section 345(b) for the Non-Compliant Accounts.

D. *Reservation of Rights.*

32. The U.S. Trustee reserves any and all rights, remedies, duties, and obligations found at law, equity or otherwise, including the right to complement, supplement, augment, alter and/or modify this Objection.

WHEREFORE, the United States Trustee respectfully submits that the Court deny the Motion and grant such other relief as the Court deems just and necessary.

Respectfully submitted,

ANDREW R. VARA
UNITED STATES TRUSTEE
REGIONS 3 & 9

By: */s/* Jeffrey M. Sponder
Jeffrey M. Sponder
Trial Attorney

Dated: June 11, 2026