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11 Permanent Receiver

12 UNITED STATES DISTRICT COURT

13 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

14 SECURITIES AND EXCHANGE
15 COMMISSION,

16 Plaintiff,

17 v.

18 CHARLES P. COPELAND,
19 COPELAND WEALTH
20 MANAGEMENT, A FINANCIAL
21 ADVISORY CORPORATION,
22 AND COPELAND WEALTH
23 MANAGEMENT, A REAL
24 ESTATE CORPORATION,

25 Defendants.

CASE NO. 11-cv-08607-R-DTB

**RECEIVER'S OBJECTION TO
JOINING LIMITED PARTNERS OF
COPELAND PROPERTIES 2/17,
5, 7 AND 16 [PROPOSED]
ORDER ON MOTION TO
CONSOLIDATE**

Date: November 5, 2012
Time: 10:00 a.m.
Ct rm: 8, 2nd Floor
Judge: Hon. Manuel L. Real

26 Mulvaney Barry Beatty Linn & Mayers LLP, counsel for Receiver
27 Thomas C. Hebrank (hereafter "Receiver"), submits the following
28 Receiver's Objection To Joining Limited Partners Of Copeland Properties
2/17, 5, 7 and 16 [Proposed] Order [Dkt. Number 154] (hereafter,
"[Proposed] Order"), as follows:

I.

THE OBJECTION IS IMPROPER.

First, the [Proposed] Order fails to address the issues before the

1 Court. The only Motion before the Court is Receiver's Motion To
 2 Consolidate. With respect to that Motion, the Receiver lodged a proposed
 3 Order on October 5, 2012. [Dkt. Number 130]. The [Proposed] Order
 4 lodged by Joining Limited Partners Of Copeland Properties 2/17, 5, 7 and
 5 16 [Dkt. Number 154-1, Page ID #:3125] seeks to re-hash the Order On
 6 Receiver's Application And Report entered February 8, 2012 [Dkt. Number
 7 37] and the Order Approving Receiver's Response To Order On
 8 Receiver's Application And Report entered on March 12, 2012. [Dkt.
 9 Number 53]. The [Proposed] Order includes issues that are not before the
 10 Court.

11 II.

12 **THE DEFECTS IN THE DECLARATION AND NOTICE HAVE BEEN** 13 **CORRECTED.**

14 The Joining Limited Partners [Proposed] Order seeks to include a
 15 finding that the Receiver's Declaration is defective. [Dkt. Number 154-1,
 16 Page ID #:3127]. As counsel for the Joining Limited Partners is well
 17 aware, every interested person, including their counsel, were served by
 18 mail on October 5, 2012, with all pages of the Receiver's declaration [Dkt.
 19 Number 130].

20 Moreover, the argument that Notice of the Motion To Consolidate
 21 was improperly filed and served has been thoroughly addressed in the
 22 Joint Reply filed by the Receiver. [Dkt. Number 156, Page ID #: 3139-
 23 3140]. Surely, the Joining Limited Partners had notice; they timely filed
 24 opposition to the Motion. This is a prime example of "no harm, no foul." If
 25 the Court is inclined to deny the Motion because of the manner in which
 26 the Notice of Motion was filed, it was requested that the Court continue the
 27 hearing date so that the Notice can be served again. The [Proposed]
 28 Order submitted by the Joining Limited Partners does not accurately
 reflect the issues before the Court and should be disregarded.

1 III.

2 **THE ISSUE OF WHICH ENTITIES ARE PROPERLY**
 3 **INCLUDED IN THE RECEIVERSHIP IS NOT BEFORE THE COURT.**

4 The Joining Limited Partners [Proposed] Order also seeks a finding
 5 that the Receiver has failed to provide justification of the continued
 6 inclusion of CP-2, CP-5, CP-7, CP-10, CP-16, and CP-17 in the
 7 Receivership. This issue was decided on March 12, 2012, when the Court
 8 executed the Order Approving Receiver's Response To Order On
 9 Receiver's Application And Report. [Dkt. Number 53]. The issue is not
 10 before the Court. The Joining Limited Partners' attempt to slip this into its
 11 [Proposed] Order is improper, and should not be countenanced by the
 12 Court.

13 IV.

14 **THE [PROPOSED] ORDER IS UNTIMELY.**

15 The Receiver lodged a [Proposed] Order at the time the Motion To
 16 Consolidate was filed, October 5, 2012. [Dkt. Number 130]. The Joining
 17 Limited Partners had until October 15 to file opposition to the Motion. If
 18 the Joining Limited Partners thought that the Proposed Order lodged by
 19 the Receiver was not appropriate, they had until October 15, 2012, to
 20 lodge a Counter Proposed Order. They did not. Rather, the Joining
 21 Limited Partners waited until October 19, just three days before the
 22 Receiver's Reply to opposition was due, to lodge their proposed order.
 23 The lodging of the Joining Limited Partners' proposed order on October
 24 19, was not timely and should not be accepted by the Court. The
 25 [Proposed] Order lodged by the Joining Limited Partners on October 19
 26 [Dkt. Number 154-1, Page ID #:3124-3127] should be disregarded.

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28 ///

V.

CONCLUSION

The [Proposed] Order does not accurately reflect the matters before the Court, and only seeks to expand the Court's ruling well beyond the issues raised by the Receiver's Motion To Consolidate. Moreover, the [Proposed] Order was not timely lodged. Based upon the foregoing, it is respectfully requested that the Court disregard the [Proposed] Order lodged by the Joining Limited Partners Of Copeland Properties 2/17, 5, 7 and 16.

DATED: October 22, 2012

MULVANEY BARRY BEATTY LINN &
MAYERS, LLP

By: /s/ Patrick L. Prindle
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