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11 Family Trust

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, COPELAND  
19 WEALTH MANAGEMENT, A  
20 FINANCIAL ADVISORY  
21 CORPORATION, AND COPELAND  
22 WEALTH MANAGEMENT, A REAL  
23 ESTATE CORPORATION

24 Defendants.

Case No.: 2:11-cv-08607-R-DTB

**OBJECTING LPS' SUR-REPLY TO  
RECEIVER'S REPLY TO  
OBJECTING LPS' OPPOSITION TO  
RECEIVER'S MOTION FOR  
ORDER: (1) APPROVING THE  
RECEIVER'S DISTRIBUTION OF  
ASSETS TO THE INVESTORS OF  
COPELAND PROPERTIES 18, L.P.;  
AND (2) AUTHORIZING  
TERMINATION AND  
CANCELLATION OF COPELAND  
PROPERTIES 18, L.P. AS AN  
ENTITY; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF OPPOSITION SUR-  
REPLY**

Date: October 21, 2013

Time: 10:00 a.m.

Ctrm: 8, 2<sup>nd</sup> Floor

Judge: Hon. Manuel L. Real

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1 **1. INTRODUCTION**

2 LPs Charles Schwab FBO Janet Ihde IRA (“IRA”), Dotan Family Trust (“Dotan  
3 Trust”), Melvyn & Ruth Ross Revocable Trust (“Ross Trust”), and Sandra Hayes  
4 (“Hayes”, and collectively with IRA, Dotan Trust and Ross Trust, the “Objecting LPs”)  
5 hereby file their Objecting LPs’ Sur-Reply To Receiver’s (Thomas Hebrank) Reply  
6 (“Receiver’s Reply”) to Objecting LPs’ Opposition to Receiver’s Motion for Order: (1)  
7 Approving the Receiver’s Distribution of Assets to the Investors of Copeland Properties  
8 18, L.P.; and (2) Authorizing Termination And Cancellation of Copeland Properties 18,  
9 L.P. as an Entity.

10 In the very first paragraph of the Receiver’s Declaration (Document 356-1), the  
11 Receiver acknowledges that he is the Permanent Receiver for, among other entities,  
12 Copeland Properties 18, L.P. (“CP18”) and Copeland Properties Three, L.P. (“CP3”).  
13 In this role, Receiver is not to be an advocate for one Receiver Entity against another  
14 Receiver Entity (as that would create a clear conflict of interest), but should clearly  
15 present the facts, then follow the law and this Court’s orders with impartiality and  
16 justice.

17 Unfortunately, from both the Receiver’s Proposed Distribution Schedule  
18 (Document 319-2, Receiver’s Declaration, Ex. A) and the Receiver’s Reply (Document  
19 356) it appears that Receiver has lost sight of this impartiality, as there is not even a hint  
20 of neutrality on the Receiver’s part. In fact, what is greatly disturbing to the Objecting  
21 LPs, (Declarations of Hayes ¶¶ 19,21-24, Ross ¶¶ 16, 19-22, Ihde ¶¶ 16, 19-22, and  
22 Dotan ¶¶ 17, 20-23) is that the Receiver is acting as an advocate against the legal rights  
23 of CP3 and CP18 (entities he is to represent and protect their legal interests). In this  
24 conflict of interest situation, it appears that the Receiver, in his advocacy role, has  
25 consistently favored Copeland Realty, Inc., (“CRI”)<sup>1</sup>, and as a result, Receiver appears  
26

27 <sup>1</sup> CRI has changed its name to Copeland Wealth Management, A Real Estate Corporation, but for simplicity in referring to  
28 this entity, it will generally be referred to as CRI, but CRI and CWM will be used interchangeably in referring to the same  
entity.

1 to have repeatedly ignored California law, critical documents and facts which have led  
2 to serious mistakes in the Receiver’s Proposed Distribution Schedule, with such flaws  
3 always working to the detriment of the Objecting LPs. The Objecting LPs do not want  
4 to do the Receiver’s job, but feel that they have been forced to on a number of these  
5 issues, to insure that the Court is presented with all the critical facts and documents, in  
6 the interests of justice.

7 The Objecting LPs also took offense to Receiver’s consistent attack on their  
8 integrity with such statements as “Opposing Partners once more are attempting to  
9 maximize their good fortune by compounding the misfortune of others.” (Receiver’s  
10 Reply, p.19:1-2). Each of the Objecting LPs has been a victim of the painful Copeland  
11 fiasco (for example, Dotan Declaration, ¶¶ 3, 5).

12 This Sur-Reply will highlight a number of those critical flaws which were not  
13 only in Receiver’s Proposed Distribution Schedule, but flaws Receiver has continued to  
14 advocate for in the Receiver’s Reply to the Objecting LPs initial Objections.

15 **2. UNDER THE CP18 PARTNERSHIP AGREEMENT, A MAXIMUM OF**  
16 **ONLY \$12,700.66 OF MANAGEMENT FEES ARE OWED TO CRI, AND NOT**  
17 **THE \$165,466.80 CLAIMED BY RECEIVER**

18 The Receiver in his recent Reply touts that his work is accurate based on his  
19 background and experience (Document 356-1, ¶ 5) and use of the “best evidence  
20 available” (Document 356, pp. 14-16).

21 Let us test this initially in regards to the Receiver’s assertion on page 18 and 19  
22 of the Receiver’s Reply that the \$165,466.80 proposed Distribution for accrued  
23 management fees from CP 18 to CRI is proper and accurate. The starting point should  
24 be the CP18 Limited Partnership Agreement (with each Limited Partnership Agreement  
25 being referred to as “LP Agreement”), as according to the testimony of Charles  
26 Copeland (“C Copeland”), the only contract which is the basis for the management fee  
27 charges is the relevant LP Agreement [W Ziprick Declaration, Exhibit 1, page 283:13-  
28 284:10]. In paragraph 7.05 of the CP18 LP Agreement, it specifies that the Managing

1 General Partner (defined in ¶ 1.07 (6) as Copeland Realty, Inc. [“CRI”]) shall be paid a  
2 flat fee as outlined in ¶ 4.02.2 [W Ziprick Declaration, Exhibit 2]. Paragraph 4.02 (1)  
3 provides that annually any cash available for distribution shall be distributed as follows:

4 **“First the Limited Partners shall receive annual cash**  
5 **distribution not to exceed 6% of the initial capital contribution made**  
6 **by the Limited Partner....”** (Emphasis added).

7 The “initial capitalization” of CP 18 is clearly described in ¶ 3.01 as being  
8 \$2,475,000, so by simply multiplying the \$2,475,000 figure by 6%, it is clear that  
9 \$148,500 must first be distributed to Limited Partners (“LPs” or “LP” when used in the  
10 singular) each year. Paragraph 4.02 (2) then states:

11 **“Next the General Partner shall receive payment for services not**  
12 **to exceed .5% of the initial Limited Partners capital contribution.”**

13 Again, simply by multiplying the \$2,475,000 by .5%, it is clear that the  
14 maximum management fee that could be paid in any annual period is \$12,375 (and only  
15 if the above referenced \$148,500 had first been distributed to the LPs during that annual  
16 period).

17 Exhibit 3 to the Receiver’s Declaration (Document 356–1) provides accounting  
18 detail for the capital accounts for the CP 18 LPs, including figures showing the  
19 distributions per year per partner. From reviewing this information, it shows that the  
20 distribution threshold of \$148,500 required each year before payment of any  
21 management fees was met during the years 2007-2010, but was not met thereafter, as  
22 the 2011 distributions fall to \$60,676.67 (below the required threshold), with no  
23 distributions thereafter (W Ziprick Declaration, ¶ 6, Exhibit 3).

24 As described above, the maximum management fee which can be charged for  
25 any annual period is \$12,375, so the maximum amount of management fees which  
26 could be charged in total by CRI is 4 years × \$12,375 per year = \$49,500.<sup>2</sup> This

27 \_\_\_\_\_  
28 <sup>2</sup> In the interests of full disclosure, one of the Objecting LPs had an undated, unsigned memo from Donald Copeland in her files requesting that the CP18 Partners approve by email an amendment to the LP Agreement to increase the General



1 \$49,500 figure does not take into account payments previously paid by CP18 to CRI for  
2 management fees. As is shown on Exhibit 8 attached to Receiver’s Declaration, which  
3 is from CP18’s accounting records for “Account 2035 – N/P Accrued Management  
4 Fees”, \$36,789.34 of management fees (the total of the debit column) have already been  
5 paid by CP18. C. Copeland in his recent continuing deposition (W. Ziprick  
6 Declaration, Ex. 1, p. 563:23 – 567:21), in reviewing the same Account 2035, admitted  
7 that those entries were indeed payments of management fees.

8 So, by deducting the payments of \$36,789.34, against the maximum charges of  
9 \$49,500, this would leave only \$12,710.66 potentially owed. This is obviously a far cry  
10 from the \$165,466.80 being claimed by the Receiver. It appears that the Receiver  
11 simply used CRI’s claim, without checking the underlying documentation to determine  
12 the claim’s accuracy.

13 Further reinforcing this conclusion is the fact that in looking at the same account  
14 “2035 - N/P - Accrued Management Fees”, the general journal entry dated 12/31/2010,  
15 shows that \$31,630.99 of interest was charged to CP18 by CRI. This is in spite of the  
16 fact that there is no provision in the LP Agreement providing for any such charge for  
17 interest, as further admitted by C Copeland in his recent deposition testimony (W  
18 Ziprick Declaration, Exhibit 1, pp. 564:14 –566:20).

19 **3. BASED ON EQUITY LOSSES OF THE LPS OF CP18 & CALIFORNIA**  
20 **LAW, NOT EVEN THE \$12,710.66 OF MANAGEMENT FEES IS OWED**

21 Not even this much smaller amount of management fees is owed, however.

22  
23 Partner’s compensation. However, the LP Agreement is very specific on the procedure for any such Amendment, as  
24 provided for in ¶ 14.02. It requires that 67% of the interests in the Partnership approve of any such amendment, and that  
25 “Any amendment of this Agreement must be in writing, dated, and executed by all Partners”. There is no provision for  
26 changing the LP Agreement simply by email. To the best recollection of the Objecting LPs, none of them ever approved of  
27 the amendment request, nor do they have any recollection or record in their files of any such amendment to the LP  
28 Agreement ever having been circulated, approved or executed by any partners of CP18. (Declarations of Hayes ¶ 15,  
Ross ¶ 13, Ihde ¶ 13, and Dotan ¶ 14). Objecting LPs’ legal counsel, William Ziprick, to the best of his recollection and  
from his review of the CP18 related documents obtained from the Receiver, does not recall seeing any documents  
approving an amendment to the CP18 LP Agreement, or purporting to amend the CP18 LP Agreement (W Ziprick  
Declaration, ¶ 7). Therefore, for these multiple reasons, the CP18 LP Agreement was never validly amended to increase the  
specified management fee.

1 According to admissions of C Copeland in his recent deposition testimony (W Ziprick  
2 Declaration, Exhibit 1, p. 266:9–267:4, p. 278:4-20: p. 572:2–575:12) it was the  
3 commitment of CRI to each one of the Copeland Properties limited partnerships,  
4 including CP18, that CRI would only be entitled to retain management fees if the LPs  
5 had received their promised 6% annual rate of return and the full return of all their  
6 invested capital. As is admitted in the Receiver’s Reply (Document 356, p. 22:13-15),  
7 the CP18 “equity holders will only receive part of their Initial Contributions out of the  
8 distributions.” Further, based on the information from Exhibit 3 from the Receiver’s  
9 Declaration, over the term of the CP18 Partnership the cash distributions did not  
10 collectively met the 6% promised annual distribution threshold (W Ziprick Declaration,  
11 ¶ 8, Exhibit 4). As a result, based upon the CRI commitment described above by  
12 C Copeland, absolutely no management fees are owed by CP18 to CRI. As is also  
13 described above, \$36,789.34 of management fees have already been inappropriately  
14 paid in prior years to CRI by CP18, so if anything, CRI actually owes CP18 \$36,789.34  
15 for overpayment of management fees.

16 As previously described in Objecting LP’s Opposition, this proposed payment is  
17 wrong in equity and justice, based upon the actions taken by the General Partner, which  
18 led to losses of millions of dollars. However, a careful review of the critical documents  
19 and facts further proves that no management fees were even owed to CRI. These types  
20 of Receiver errors are consistently in favor of CRI (at the expense of CP18 and its LPs).

21 California Corporations Code (“Corp. Code”) 15904.06(f) is also relevant, and  
22 provides: “A general partner is not entitled to remuneration for services performed for  
23 the partnership.” This is a further basis for the conclusion that no management fees to  
24 CRI are owed by CP18.

25 **4. RECEIVER’S PROPOSED CONFISCATION OF ALL OF THE CP18**  
26 **RETIREMENT ASSETS IN THE “CHARLES SCHWAB FBO JANET IHDE**  
27 **IRA” VIOLATES BOTH CALIFORNIA LAW AND THIS COURT’S PRIOR**  
28 **ORDER PROHIBITING POOLING, AND SHOULD NOT BE ALLOWED**

1 Receiver concedes that the Receiver has no judgment against Janet Ihde or the  
2 Charles Schwab FBO Janet Ihde IRA (“Ihde IRA”) (Receiver’s Reply, p. 20:12–19).  
3 Because of this, Receiver’s argument essentially boils down to the following:

4 I have no judgment. Therefore, I am free to ignore the numerous  
5 safeguards in California law specifically enacted to protect assets in an  
6 Individual Retirement Account (“IRA”) against execution of a judgment  
7 even when a creditor actually has a judgment.

8 This position would be laughable if the stakes weren’t so serious. Receiver cites  
9 no authority for its position, as there is none. The protections afforded in Code of Civil  
10 Procedure § 704.115 certainly do not disappear because someone demands assets from  
11 an IRA claiming that they are owed money, even though they don’t even have a  
12 judgment. Receiver has obtained no judgment, has no writ of execution, and has  
13 absolutely no legal basis for his attempted confiscation of Ihde IRA’s assets.

14 If Receiver’s out-of-thin-air confiscation procedure was valid, anyone could walk  
15 into an office of an investment bank and demand to withdraw funds from a customer’s  
16 IRA, solely upon stating that the customer owed them money. Due process would be  
17 out the window. Such a result would make a mockery of the California laws which are  
18 designed to provide strong safeguards for such assets, to prevent the exact type of abuse  
19 which the Receiver would like to perpetrate upon these protected retirement funds.

20 The Receiver also repeatedly misstates the clear factual record. The Receiver  
21 alleges that Ihde has simply “designated her IRA as the account to which any proposed  
22 distribution would go . . .” (Receiver Reply, p. 20:20 -21). Two lines later Receiver  
23 again states: “Whether she [Ihde] chooses to place them [the funds] in a retirement  
24 accounts is not determinative.” The Receiver is cleverly trying to create the false  
25 impression that Ihde is only now attempting to place these funds in an IRA. This is  
26 absolutely untrue. Directly on point, Ihde in her recent Declaration (Document 333-3,  
27 ¶ 22) made clear that she individually has never been the owner of any investment in  
28 CP18, but it is the “Charles Schwab FBO Janet Ihde IRA” which has always held that

1 interest from the beginning. Attached to that Declaration as Exhibit “C” is a Charles  
2 Schwab Statement for the “Rollover IRA of Janet K. Ihde, Charles Schwab & Co., Inc.  
3 Cust., IRA ROLLOVER” from over 2 years ago clearly showing the CP18 equity  
4 interest as an asset of the IRA. Further, the CP18 Accounting Records attached as an  
5 exhibit to the Receiver’s own recent Declaration (Document 356 – 1 & 2, Exhibit 3, pp.  
6 27 & 28) clearly identifies this same investment as “Janet Ihde (Schwab)” – an  
7 unambiguous showing that this investment is in the Schwab IRA.

8 The Receiver, by its proposed wrongful taking of the assets in the IRA, is also  
9 clearly violating this Court’s November 9, 2012, Order, which prohibited pooling of  
10 assets and liabilities. Despite Receiver’s protestations of innocence, Receiver in fact is  
11 proposing to offset and pool the Ihde IRA asset in CP18 with “alleged” obligations of  
12 Janet Ihde to totally different Receivership Entities. That is a classic pooling of assets  
13 and liabilities, which this Court specifically forbade.

14 In the Receiver’s Reply (p. 21:15-17), the Receiver cites that in Copeland  
15 Properties 10, LP (“CP10”), the Court approved a withholding of funds, but the  
16 Receiver fails to mention two distinguishing elements of the CP10 withholding: (1) the  
17 withholding was in the context of a Settlement Agreement; and (2) the withholding was  
18 not from an IRA, in vivid contrast with Receiver’s present plan to raid assets which  
19 have been in the Ihde IRA for almost 10 years now.

20 As he has with many other California laws, Receiver cavalierly dismisses Corp.  
21 Code § 15905.07 (Receiver’s Reply, p. 21, starting at line 19). This is the offset  
22 provided for in California law in a limited partnership context, where distributions to a  
23 LP may be offset by the limited partnership against amounts owed it by that specific  
24 LP. The legislature wisely did not provide for Receiver’s open-ended proposed taking  
25 of anything it can lay its hands on, with no due process or legal protections.

26 Receiver argues that it has provided ample documentation to support its taking of  
27 the funds in Ihde’s IRA. Receiver conveniently fails to describe the response letter  
28 from attorney Robert Ziprick to Toby Kovalivker, one of Receiver’s legal counsel,

1 dated June 6, 2012 (Document 333-1, R Ziprick Declaration, ¶ 20, Ex. 11). That letter  
 2 requested documentation from Receiver's Counsel supporting the alleged claim, and to  
 3 the best of Mr. Ziprick's knowledge, such documentation was never provided.

4 Instead of providing documentation, Receiver's Counsel admits that she merely  
 5 stated that the alleged claims were based on accounting entries (Receiver's Reply, p.  
 6 19:18–27). It was never suggested by Mr. Ziprick to Ms. Kovalivker that he was  
 7 satisfied with her explanation. In fact, based upon Receiver's Counsel's conclusion that  
 8 Janet Ihde was one of the worst examples of Copeland's wrongful actions, the Receiver  
 9 requested that Ihde provide a declaration, which she did (R Ziprick Declaration ¶¶ 5-7).

10 For the sake of brevity, Objecting LP Ihde will not present here the numerous  
 11 legal defenses and arguments which counter any alleged claim of the Receiver. Such  
 12 defenses would appropriately be brought up in a separate action, if a claim, such as it is,  
 13 is brought by the Receiver. Ihde would certainly be entitled to her day in court, and  
 14 should not be subjected to the unsubstantiated attempted raiding of assets which have  
 15 been in a retirement account now for almost 10 years.

16 **5. THE RECEIVER FINALLY ADMITS THAT CP18 INDEED OWED CP3**  
 17 **\$423,544.11, BUT THE RECEIVER STILL FAILS TO APPROPRIATELY**  
 18 **CORRECT HIS FLAWED PROPOSED CP18 DISTRIBUTION SCHEDULE**

19 The Receiver now finally admits that a total of \$423,544.11 (“CP3 Note”) was  
 20 indeed owed by CP18 to CP3 (Receiver's Reply, p. 10:24-28, Receiver's Declaration ¶  
 21 36)<sup>3</sup>. Only a few weeks ago, the Receiver inexplicably maintained that:

22 “I am informed and believe that CP3 did not loan money to CP18....”  
 23 (Document 319-2, ¶ 21).

24 As this prior assertion of the Receiver was so patently wrong (as was pointed out  
 25

26 <sup>3</sup> Objecting LPs in their prior Opposition on pp. 7-9 objected to the Receiver's failure to account for a \$333,544.11 loan  
 27 from CP3 to CP18 in Receiver's Proposed Distribution Schedule. This turned out to be a conservative figure, as even the  
 28 Receiver now acknowledges that the CP3 loan to CP18 had two components to it, one being the \$333,544.11 amount and  
 the other being \$90,000, for a total loan of \$423,544.11 (see Receiver's Declaration, ¶ 36).

1 to this Court by the Objecting LPs), the Receiver has now done an 180-degree-about-  
2 face and admits that CP3 did in fact have a large Note from CP18 as its asset. The  
3 Receiver for the first time now contends, however, that though the CP3 Note really did  
4 exist, that CRI, even though a fiduciary to CP3, had the right to unilaterally confiscate  
5 this valuable CP3 Note for itself.<sup>4</sup> The Receiver simply asserts that CP3 "...transferred  
6 the debt owed to it by CP18 to CRI..." (Receiver's Reply, p. 11:3-5). The Receiver  
7 attempts to justify this unauthorized transfer of the CP3 Note to CRI by its assertion  
8 that CP3 had unpaid debt to CRI which was increased by CRI on 12/31/07 by  
9 \$314,965.56<sup>5</sup> simply by a journal entry (Document 356-5, Ryan Declaration ¶¶ 5 & 8,  
10 Ex. 2).

11 To determine the validity of Receiver's conclusion, we must review several  
12 critical questions: (1) Did CRI have authority to simply create debt from CP3 payable  
13 to CRI ("CRI Note"), and was such debt then due and payable to CRI?; and (2) Was the  
14 unilateral and unauthorized attempted taking of the \$423,544.11 CP3 Note by CRI as  
15 alleged payment on the unauthorized, newly created CRI Note legally valid?

16 As an initial observation, it appears that the Receiver believes that it is an  
17 acceptable practice to only review some of the accounting entries posted by CRI, and to  
18 essentially ignore California law and the critical foundational documents upon which  
19 the accounting entries must stand. Unfortunately, this was the same mistake the  
20 Receiver made concerning the alleged management fees as discussed above. When the  
21 Receiver skips this key step, it again leads the Receiver to an erroneous conclusion.

22 Concerning the factual background, Objecting LPs generally concur with the  
23

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24 <sup>4</sup> The Receiver overlooks the fact that CRI, CP3's General Partner, did not obtain the necessary approval of the LPs, as is  
25 required prior to any such taking being effective, as CRI had a conflict of interest (which will be discussed in greater detail  
later in this Sur-Reply).

26 <sup>5</sup> The figure used in Ryan's Declaration (\$314,709.92) does not match the number in the QuickBooks records attached to  
27 her Declaration as Exhibit 2, which shows the actual amount of the 12/31/2007 entry being \$314,965.56. This \$314,965.56  
of alleged new debt unilaterally created by CRI was then added to a \$57,744.36 balance allegedly owed from CP3 to CRI,  
28 creating a new total of alleged debt of \$372,709.92 from CP3 to CRI (how convenient for CRI, all without approval).

1 Receiver on the \$1.8 million Pacific Western loan (Document 356, p. 7:25-8:14),  
 2 CP18's purchase of the North Carolina Property (Document 356, p. 8:26-9:13), and  
 3 CP3's sale of its Rancho Cordova property (Document 356, p. 9:20-10:2) [although  
 4 within this background is Receiver commentary with which Objecting LPs disagree].

5 Objecting LPs concur with Receiver that in 2005 CRI purchased a parcel ("Wrap  
 6 Around Parcel") adjacent to the large building and parcel owned by CP3 in Rancho  
 7 Cordova, CA ("CP3 Building").<sup>6</sup> The Wrap Around Parcel was sold along with the  
 8 CP3 Building to Tri Tool, Inc., in April, 2007.<sup>7</sup> Curiously, CRI did not include itself as  
 9 a party to the Deposit Receipt and Real Estate Purchase Contract Agreement dated  
 10 10/20/06 ("Sale Agreement"), and the Sale Agreement did not address CRI's ownership  
 11 of the Wrap Around Parcel (W. Ziprick Declaration ¶ 9, Ex. 5) CRI, as the General  
 12 Partner of CP3, had the sale proceeds come to CP3.

13 It was CRI's next step where the Objecting LPs take great issue with the  
 14 Receiver, as the Receiver, without appropriate due diligence, simply accepts CRI's  
 15 unauthorized attempted increase of the debt supposedly owed from CP3 to CRI by  
 16 \$314,965.56, by journal entries made on 12/31/2007 by none other than CRI  
 17 (Document 356-5, Ryan Declaration, ¶ 5, Ex. 2). A big red flag should go up, where  
 18 CRI, as the General Partner of CP3, unilaterally attempted to increase the debt allegedly  
 19 owed to it from CP3 by over \$300,000, particularly in light of the conflict of interest  
 20 issues which should scream out to the Receiver from this purported transaction,  
 21 attempted with nothing more than a few keystrokes on the computer.

22  
 23  
 24  
 25 <sup>6</sup> This certainly raises serious issues about CRI's violation of its fiduciary obligations to CP3 by CRI's purchase of this  
 26 Wrap Around Parcel, without ever informing the LPs of CP3 of this opportunity so that they could determine if CP3 would  
 27 itself desire to own this parcel. (Declarations of Sandra Hayes [¶ 10], Melvyn Ross [¶ 8], Janet Ihde [¶ 8], Joseph Dotan [¶  
 28 9]).

<sup>7</sup> As it involved a § 1031 tax deferred reverse exchange, the Buyer is shown as "NBFRE 10 LLC", but it was for the benefit  
 of Tri Tool.

1 **6. CRI’S ATTEMPT TO CREATE VIRTUAL DEBT FROM CP3 WAS**  
2 **NULL AND AVOID, AS CRI HAD NO AUTHORITY TO CREATE THE**  
3 **ALLEGED DEBT FROM CP3 WITHOUT THE CP3 LPs’ APPROVAL**

4 Because of CRI’s readily apparent conflict of interest<sup>8</sup>, the Receiver should have  
5 reviewed CP3’s LP Agreement (W Ziprick Declaration ¶ 10, Ex. 6).<sup>9</sup> Under § 7.06(a)  
6 of the Partnership Agreement, it clearly states that

7 “... the Limited Partners have the right to vote on the following  
8 matters: ... (5) Transactions in which the General Partner has an actual or  
9 potential conflict of interest, either with the Limited Partners or the  
10 Partnership.”

11 Section 7.06(b) then provides:

12 “All of the actions specified in Subparagraph (a) of this Agreement  
13 may be taken following the vote of 67% of the Limited Partners.”

14 An approving vote of 67% the LPs of CP3 was required before CRI could just  
15 create CP3 debt payable to CRI, to allegedly transfer sale proceeds from the Wrap  
16 Around Parcel, particularly where the underlying Sale Agreement was executed by  
17 Donald Copeland (the president of CRI and a major owner of CRI), and the Sale  
18 Agreement had no provision for funds to go to CRI. The LPs of CP3 were never asked  
19 to give their required approval, and never gave their approval to this purported transfer  
20 of sale proceeds to CRI (Declarations of Hayes ¶ 11, Ross ¶ 9, Ihde ¶ 9, and  
21 Dotan ¶ 10). As a result, the attempted creation by CRI of this \$314,965.56 of new debt  
22 payable to itself by CP3 was null and void (as discussed further hereinafter in § 10). If  
23 CRI could create this virtual phantom debt without authorization, CRI could have  
24

25 <sup>8</sup> Charles Copeland owned 66.6% of CRI, and his son Don owned 33.3%. They were both corporate officers and both sat  
26 on the Board of Directors (W Ziprick Declaration, Ex. 1, p. 219:15-24).

27 <sup>9</sup> In Receiver’s Declaration ¶ 37, lines 12-16, Receiver makes reference to the CP3 LP Agreement, which he indicates was  
28 attached as Exhibit 15. Unfortunately, that exhibit is the CP18 LP Agreement, the wrong limited partnership, as is readily  
apparent from even a cursory review (see Hayes Declaration ¶ 24 for example).



1 created unlimited debt without the required authorization, which is the exact reason for  
2 the safeguards placed in the CP3 LP Agreement for the protection of its LPs.

3 The necessity of LP approval under such circumstances was even recently  
4 acknowledged by C Copeland, as evidenced in his recent deposition testimony (W  
5 Ziprick Declaration, Ex. 1, p. 284:11-286:9, 291:16-292:21).

6 **7. THERE IS NO EVIDENCE THAT CRI'S "WRAP AROUND PARCEL"**  
7 **HAD ANY EQUITY VALUE**

8 Even if CRI had requested such LP approval, there were a number of factors  
9 which the LPs would have undoubtedly wanted to review in evaluating the fairness of  
10 this proposed debt creation (Declarations of Hayes ¶ 11, Ross ¶ 9, Ihde ¶ 9, and Dotan ¶  
11 10). These factors certainly would have included the following: (1) Was there any  
12 equity value in the Wrap Around Parcel net of its debt? (2) Was there appropriate  
13 allocation of Closing Costs to CRI, and (3) Were there other legal and/or contractual  
14 commitments that CRI had made to CP3 or its LPs that would impact this decision?  
15 Let's briefly review these factors.

16 First, there is no evidence that the inclusion of the Wrap Around Parcel in the  
17 sale transaction to Tri Tool added any value to the transaction. The prior long-term  
18 tenant in the CP3 Building, the Internal Revenue Service, had leased the building for  
19 many years without this Wrap Around Parcel being part of the lease, as CRI did not  
20 even purchase the Wrap Around Parcel until 2005, after the IRS had terminated its lease  
21 and moved out (Hayes Declaration, Ex. 1, W Ziprick Declaration ¶ 11, Ex. 7). The  
22 valuable asset was the CP3 Building, not the Wrap Around Parcel.

23 In the Receiver's Reply (p. 11:16-18), the Receiver asserts, "...that the value of  
24 the land [the Wrap Around Parcel] was added to CP3's note payable to CRI..." If  
25 anything should be added to the CRI Note, it is certainly not the "value of the land" (the  
26 "gross" amount), but only the value of the land less the amount of any underlying debt  
27 on the Wrap Around Parcel (the "net" amount, or "equity value"). There is no evidence  
28 that there was any equity value, especially since this Wrap Around Parcel was

1 encumbered by a large loan. The Seller's Final Settlement Statement from the Escrow  
2 ("Closing Statement") for the sale of the CP3 Building and the Wrap Around Parcel to  
3 Tri Tool in April, 2007 (Document 356-1, Ex. 10) shows the payoff of the large  
4 underlying loan owed by CRI, which was secured by a Deed of Trust against the Wrap  
5 Around Parcel, which was deducted from the sale proceeds received by CP3. This was  
6 the amount of \$572,416.66 shown on the Closing Statement (under Payoff Loan(s) - on  
7 the 2<sup>nd</sup> line paid to Angerson and Anderson, which CRI caused CP3 to pay out of CP3's  
8 sale proceeds, all to CRI's benefit (W Ziprick Declaration, ¶ 12).

9 The second factor the LPs would have wanted to consider was whether CRI  
10 appropriately paid its share of closing costs. As is shown in the same Closing  
11 Statement, all the Seller's expenditures related to the sale (including all of CRI's costs  
12 from the Wrap Around Parcel sale) were deducted from CP3's sale proceeds, including  
13 broker's commissions (\$440,000), title insurance (\$9,405), County Documentary  
14 Transfer Tax (\$10,670), property tax prorations (a net figure of over \$30,000), and  
15 other assorted closing costs and expense prorations ("Closing Costs"). The Closing  
16 Statement does not show CRI paying a dime of these closing costs.

17 Glaringly absent from the Ryan Declaration (Document 356-5) submitted by the  
18 Receiver is any mention of CRI's share of all of these Closing Costs, which should have  
19 been paid by CRI, but were not. The total Closing Costs, as shown in the Closing  
20 Statement, were in excess of \$550,000. Just as with Closing Costs, a legitimate inquiry  
21 could also have been made whether CRI had caused CP3 to pay other CRI costs  
22 associated with CRI's Wrap Around Parcel, all without CP3's knowledge.

23 **8. ALL OF CRI'S LOANS TO CP3 WERE SUBORDINATED**

24 The third factor the LPs would rightfully have wanted addressed prior to giving  
25 any approval to CRI, was whether there were any other commitments that CRI had  
26 previously made to the LPs that impacted this decision. An initial observation is that  
27 CRI was in the position to separately sell this Wrap Around Parcel, and, to the extent  
28

1 there were any sale proceeds, to have the proceeds come directly to CRI.<sup>10</sup> However,  
 2 CRI instead chose to have all of the sale proceeds come to CP3 in April, 2007, and then  
 3 waited over eight months later until 12/31/07 to attempt to create debt from CP3  
 4 (without Partnership authorization) in an amount CRI unilaterally determined was its  
 5 share of the proceeds, which CRI then immediately booked as a loan (the \$314,965.56  
 6 figure) from CP3 to CRI (W Ziprick Declaration, ¶ 13, Ex 8). These details come from  
 7 the QuickBooks records of CP3 prepared by CRI (Ryan Declaration, ¶ 5, Exhibit 2).

8 The critical next step in the inquiry appears to have been totally bypassed by the  
 9 Receiver.<sup>11</sup> On May 3, 2005, CRI sent out a very important document (“Subordination  
 10 Commitment”) to the CP3 LPs (W Ziprick Declaration ¶ 14, Ex. 9). In this  
 11 Subordination Commitment, CRI agreed to make subordinated loans to CP3, which  
 12 would be subordinated to the first mortgage “and to all limited partners’ initial  
 13 contributions”. C Copeland admitted in his recent deposition testimony that all loans  
 14 made by CRI, as shown in the CP18 QuickBooks accounting records under account  
 15 number “2020 - Note Payable-CRI”, were subordinated loans (W Ziprick Declaration,  
 16 Ex. 1, p.303:5 – 308:5). These are the exact same purported loans which the Receiver  
 17 now claims was the reason for CRI’s transfer of the \$423,544.11 CP3 Note to itself, to  
 18 allegedly pay these “loans” off. However, the truth is that these loans were fully  
 19 subordinated (and still are), and could not be paid off until the return of all the LPs’  
 20 initial capital contributions to the CP3 LPs (Declarations of Hayes ¶ 7-8, Ross ¶ 5-6,  
 21 Ihde ¶ 5-6, and Dotan ¶ 7-8).

22 \_\_\_\_\_  
 23 <sup>10</sup> Which assumes that the Wrap Around Parcel was even marketable without inclusion with the CP3 Building.

24 <sup>11</sup> This subordination issue also clearly demonstrates how important it would have been for Receiver’s Counsel to properly  
 25 follow the rules of the Federal Court for the Central District of California to have a “Meet and Confer” between counsel  
 26 prior to the filing of its proposed Distribution Motion on 8/16/13. This would have been the opportune time to discuss and  
 27 work through this issue and others, which hopefully could have avoided this prolonged and expensive disagreement about  
 28 the accuracy of the Receiver’s Proposed CP18 Distribution Schedule. Objecting LPs would have much preferred the  
 opportunity to try to reconcile these issues prior to the filing of the Motion by Receiver. You do not have your “Meet and  
 Confer” either months before the Motion is even prepared or, in the alternative, after the Motion is filed, which is  
 Receiver’s Counsel argument that they did “Meet and Confer”. (Document 356-6 ¶¶ 7, 13-18, W Ziprick Declaration ¶ 15,  
 R Ziprick Declaration ¶¶ 13-15).

1 A review of the above referenced account “ 2020 – Note Payable-CRI “shows  
 2 that these subordinated loans did indeed commence within a few short months after the  
 3 critical May 5th Subordination Commitment, with the first loan being made on 7/31/05.

4 It is in this context that the Tri Tool claims against the LPs of CP3 become  
 5 relevant.<sup>12</sup> Tri Tool added the LPs of CP3 as defendants in its ongoing litigation against  
 6 CP3, et al., in April, 2007 (“Tri Tool Litigation”), and alleges that the LPs received  
 7 distributions which they were not entitled to, which funds Tri Tool alleges should have  
 8 been used to pay a \$200,000 promissory note to Tri Tool (W Ziprick Declaration, ¶ 16,  
 9 Ex. 10). These claims created contingent liabilities against every one of the LPs of  
 10 CP3. Until the final resolution of this Tri Tool litigation, with a determination of  
 11 whether the LPs have to return any of their “capital contribution distributions”, it is  
 12 impossible to know exactly what amount of the partner’s “initial contributions” these  
 13 LPs truly have received from CP3. For example, if you received five hundred dollars  
 14 from someone, but along with it, you incurred an obligation to pay someone else one  
 15 hundred dollars, in reality, you have only received four hundred dollars, not five  
 16 hundred dollars. This is fairly basic.

17 **9. THE SUBORDINATED LOANS FROM CRI, TO THE EXTENT THEY**  
 18 **EVEN EXIST, ARE NOT EVEN DUE OR PAYABLE YET**

19 Pursuant to this analysis, and based upon the Subordination Commitment from  
 20 CRI to all of the LPs of CP3, no amount of the subordinated loan from CRI to CP3 (as  
 21 shown in Account 2020) is yet due or payable to this day, as all payments on this  
 22 subordinated debt are fully subordinated to the LPs receiving back all of their initial  
 23 capital contributions first. Any amounts which the CP3 LPs may eventually have to  
 24 \_\_\_\_\_

25 <sup>12</sup> The Receiver makes a desperate attempt to state that the Opposing LPs are in reality simply attempting to undo the  
 26 Court’s recent order denying Tri Tool’s Motion to Lift the Stay. Nothing could be further from the truth. The Objecting  
 27 LPs have been defendants for 2 ½ years in a lawsuit from Tri Tool. The recent continuing Deposition of C Copeland was  
 28 discovery in that litigation. The Receiver would have this Court believe that somehow the Tri Tool litigation is simply  
 some type of cover to get at CP18 funds. Objecting LPs would remind the Receiver that the Tri Tool litigation against the  
 Objecting LPs commenced many months before the Receiver was even appointed. The fact that a number of different  
 parties take issue with the Receiver’s positions for their own independent reasons proves nothing.

1 pay to Tri Tool would have to be an offset against any amount allegedly owed to CRI  
2 from CP3, based on the terms of the Subordination Commitment, as those LPs would  
3 not have received the full amount of their “initial contributions” to that extent. As is  
4 admitted by the Receiver in the Receiver’s Reply (p. 10:9-10), the LPs only received  
5 back the amount of their “initial contributions” in CP3 as interests in CP18, so any  
6 payments they would have to make to Tri Tool would mean that they have not yet  
7 received their full “initial contributions,” because of the outstanding contingent liability  
8 hanging over all of their collective heads.

9 CRI’s and the Copelands’ own actions, which were unknown to the CP3 LPs, are  
10 responsible for the position in which CRI placed itself. According to C Copeland’s  
11 own deposition testimony (W Ziprick Declaration, Ex. 1, p. 465:8-467:14, p 475:18-  
12 20): (1) He never told any of the CP3 LPs about the \$200,000 contingent liability to Tri  
13 Tool, and (2) He admitted that CRI never recorded the \$200,000 contingent liability on  
14 the books of CP3. CRI knew of the contingent liability, but the LPs did not, so CRI of  
15 all the parties knew that the CP3 LP’s initial capital might still be at risk, and as a result,  
16 the CRI loan subordination was still in place.

17 CRI’s actions caused the LPs to have a contingent liability to Tri Tool (and the  
18 Receiver has indicated that Tri Tool claims are now in excess of \$500,000 [Document  
19 356-6, ¶ 18]), even though the Objecting LPs have vigorously contested this liability for  
20 2 ½ years now. As a result, the LPs have not yet received their full initial capital  
21 invested in CP3, and based upon the Subordination Commitment, no debt (to the extent  
22 that it even exists) of CP3 to CPI is yet or may ever be due. Accordingly, the attempted  
23 “taking” by CRI of the \$423,544.22 CP3 Note was for a debt not yet due, and the CP3  
24 Note is still an asset of CP3, and never was an asset of CRI.

25 **10. CRI’S ATTEMPTED “TAKING” OF THE \$423,544.22 CP3 NOTE**  
26 **FROM CP3 WAS NULL AND VOID**

27 Just as was previously discussed in regards to the failure of CRI to obtain the  
28 required LP approval for CRI’s attempted creation of CP3 debt payable to itself (see pp.

1 11-12 of this Sur-Reply), the CP3 LP Agreement requirement in ¶ 7.06 for approval by  
2 the LPs of any transaction in which the General Partner has a conflict or potential  
3 conflict of interest equally applies to the attempted "taking" of the \$423,544.22 CP3  
4 Note by CRI. This LP right to vote is authorized pursuant to California Corporations  
5 Code § 15903.07(b). No such approval was ever requested by CRI or given by the LPs  
6 (Declarations of Hayes ¶ 16, 19, Ross ¶ 14, 17, Ihde ¶ 14, 17, and Dotan ¶ 15, 18).

7 Without the required LP approval, any such purported attempt to confiscate this  
8 valuable asset of CP3 was null and void. This attempted "taking" was not to any type  
9 of innocent third party bona fide purchaser, but instead had been orchestrated by CRI,  
10 which clearly had fiduciary obligations to CP3. CRI violated these obligations by its  
11 attempted unauthorized "taking" of the \$423,544.11 CP3 Note from CP3. With CRI on  
12 both sides of this attempted transfer, ¶ 7.06 of the LP Agreement required prior specific  
13 approval of the LPs, an approval which was never obtained. Accordingly, CRI had  
14 absolutely no authority to transfer this CP3 Note, and the attempted transfer is null and  
15 void.

16 The purpose of the LPs' right to vote is to provide them protection from wrongful  
17 acts of the general partner. As the United States District Court for the Southern District  
18 of California stated: "It may well be true that a general partner has the management of  
19 the business, but the special partner does not from the mere fact that his liability is  
20 limited, cease to have a voice in the management or **disposition of the property of the**  
21 **partnership.**" (*Toor v. Westover* (1950) 94 F. Supp. 860.) (Emphasis added). This case  
22 is right on point, as it was the potential disposition of the CP3 Note which required the  
23 LPs' vote.

24 Corp. Code § 15904.02 provides that the general partner is an agent of the limited  
25 partnership for purposes of its activities, and further provides that if the general partner  
26 acts within the "ordinary course the limited partnership's activities", then their acts are  
27 binding:  
28

1                    "...unless the general partner did not have authority to act for  
 2                    **the limited partnership in the particular matter and the person with**  
 3                    **which the general partner was dealing knew ... that the general**  
 4                    **partner lacked authority."** (Emphasis added).

5                    In the present circumstances, CRI, being on both sides of the attempted taking of  
 6                    the \$423,544.11 CP3 Note, had full knowledge that the attempted taking had not been  
 7                    duly authorized, making the transfer absolutely nonbinding, and null and void.<sup>13</sup>

8                    California case law is clear that an agent's unauthorized act is void. (See  
 9                    *Alcorn v. Buschke* (1901) 133 Cal 655 [where power of attorney to sell land is subject  
 10                    to approval of donor of power, unapproved deed of land, executed without  
 11                    consideration by attorney in fact, purporting to act under such power, is unauthorized  
 12                    and void]; *Alcorn v. Batterman* (1901) 6 Cal Unrep 776 [where deed executed by agent  
 13                    acting under power of attorney is in excess of power granted, deed is void]; *Shields v.*  
 14                    *Shields* (1962) 200 Cal App 2d 99, [power of attorney conferring authority to sell,  
 15                    exchange, transfer or convey real property for benefit of principal does not authorize  
 16                    conveyance as gift or without substantial consideration, and conveyance without scope  
 17                    of power conferred is void]) (Emphasis added). Consistent with these decisions, the  
 18                    attempted transfer of the CP3 Note is clearly null and void, as the General Partner had  
 19                    no authority to transfer this valuable asset.

20                    Furthermore, under both the terms of the CP3 LP Agreement, ¶ 10.01, and Corp.  
 21                    Code § 15904.04(a), CRI as the General Partner of CP3 is fully liable for all obligations  
 22                    of CP3, including any loans of CP3 from CRI.<sup>14</sup> This is consistent with the recent  
 23                    admissions of C Copeland in his deposition (W Ziprick Declaration, Exhibit 1,  
 24

25 \_\_\_\_\_  
 26 <sup>13</sup> There are no statute of limitations issues, as the CP Note is and always has remained an asset of CP3. Further, many of  
 the critical facts have only been discovered recently during the pendency of the Receivership, with the corresponding  
 tolling of the statute of limitation, based on the Stay.

27 <sup>14</sup> Paragraph 10.01 of the CP3 LP Agreement provides: "Except as otherwise provided in this Agreement, the liability of  
 28 the General Partner arising from the conduct of the business affairs or operations of the Partnership or for the debts of the  
 Partnership is unrestricted."

1 p. 300:21-302:13). This provides another independent legal basis for the conclusion  
 2 that nothing was owed to CRI which would justify the attempted “taking” by CRI from  
 3 CP3 of the \$423,544.11 CP3 Note.

4 **11. RECEIVER’S PROPOSED \$200,524.68 PAYMENT SHOULD GO TO**  
 5 **CP3, NOT CRI**

6 According to the Receiver’s own statements, it is the remaining balance on this  
 7 \$423,544.22 CP3 Note which the Receiver has proposed to pay to CRI in the amount of  
 8 \$200,524.68 (Receiver’s Reply, p. 11:5-11). These funds should be paid from CP18 to  
 9 the rightful owner of the Note, CP3, and not to CRI, which has no claim to these funds.  
 10 In reality, the entire \$423,544.22 CP3 Note is a valid debt of CP18, as CP3 received  
 11 none of the benefit from any alleged reductions in the note balance from \$423,544.22 to  
 12 the purported \$200,524.68 current balance. Certainly, at a minimum, the entire  
 13 remaining \$200,524.68 balance should be paid to CP3.

14 **12. ANY PAYMENTS WHICH CRI DOES RECEIVE BASED UPON THE**  
 15 **\$423,544.22 CP3 NOTE SHOULD BE HELD IN CONSTRUCTIVE TRUST FOR**  
 16 **THE BENEFIT OF CP3, AND BE IMMEDIATELY DISBURSED TO CP3**

17 As discussed above, the attempted “taking” by CRI of the \$423,544.11 CP3 Note  
 18 to itself is null and void. If this Court should determine, however, that the CP3 Note  
 19 was transferred in some fashion to CRI, even though wrongfully, the Objecting LPs  
 20 would maintain that any payment made thereon should be held by CPI in a constructive  
 21 trust on behalf of CP3, and should be immediately transferred to CP3. Consistent with  
 22 California Civil Code § 2223 and 2224, “A constructive trust is an involuntary equitable  
 23 trust created as a remedy to compel the transfer of property from a person wrongfully  
 24 holding it to the rightful owner.” *In re Real Estate Associates Ltd. Partnership Litig.*,  
 25 223 F. Supp. 2d 1109, 1139 (C.D. Cal. 2002) “The imposition of a constructive trust  
 26 requires: (1) the existence of res (property or some interest in property); (2) the right of  
 27 the complaining party to that res, and (3) some wrongful acquisition or detention of  
 28 these by another party who is not entitled to it.” See *Burlesci v. Petersen*, 68 Cal. App.



1 4<sup>th</sup> 1062, 1069 (1998).

2 All of those requirements as laid out by the court in the *Burlesci* decision are  
 3 amply met under the present facts. The \$423,544.11 CP3 Note is the “res”. It is  
 4 uncontested that the CP3 Note was the property of CP3. Finally, as detailed above,  
 5 numerous wrongful actions were committed by CRI in its attempted “taking” of said  
 6 CP3 Note, and CRI was not entitled to the CP3 Note.<sup>15</sup> Under such facts and law, this  
 7 Court, if it determines that the \$423,544.11 CP3 Note was transferred to CRI, should  
 8 rule that this CP3 Note and any payments on the CP3 Note are held in constructive trust  
 9 on behalf of CP3, and should be immediately returned to CP3 by the Receiver, along  
 10 with all payments on said note.

11 This result is also mandated by Corp. Code § 15904.08(b)(1), Fiduciary Duties of  
 12 General Partner<sup>16</sup>, which specifically provides for, in the context of a GP’s duty of  
 13 loyalty, a trust being established over property held by the GP.

14 **13. THE RECEIVER’S REJECTION OF OBJECTING LP ROSS TRUST’S**  
 15 **CLAIM IS INCREDIBLY FLAWED**

16 The Ross Trust submitted a claim for the unpaid \$350,000 loan it made to CP12,  
 17 which is secured by CWM’s partnership interest in CP18 (“Ross Claim”). The major  
 18 ground for the initial denial of the Ross Claim was the Receiver’s false representation  
 19 that CP18 would not have sufficient assets to pay all creditors in full, and thus the Ross  
 20 Trust’s security interest, and the underlying claim, could be avoided. As was  
 21 demonstrated in Objecting LP Ross’s Opposition (Document 333, p. 15-16), there are  
 22 more than sufficient funds to pay all creditors of CP18, with over \$2 Million left to be  
 23 paid to equity holders (Document 319-2, Ex. A).

24 \_\_\_\_\_  
 25 <sup>15</sup> CRI’s numerous wrongful actions included breach its fiduciary duties, numerous breaches of the CP3 LP Agreement,  
 failure to disclose relevant info to the LPs, and the list goes on and on. These wrongful actions of CRI have also subjected  
 all of the LPs of CP3 to the mental and financial stresses of ongoing litigation from Tri Tool.

26 <sup>16</sup> Corp. Code § 15904.08(b)(1) provides as follows: “(b) A general partner’s duty of loyalty to the limited partnership and  
 27 the other partners is limited to the following:(1) to account to the limited partnership and **hold as trustee for it any**  
**property, profit, or benefit derived by the general partner in the conduct and winding up of the limited**  
 28 **partnership’s activities** or derived from a use by the general partner of limited partnership property, including the  
 appropriation of a limited partnership opportunity...” (Emphasis added).

1 In response, the Receiver in his most recent Reply now incredibly (for a certified  
2 public accountant) claims that all of the creditors will not be paid in full because “the  
3 equity holders will only receive part of their initial contributions out of the  
4 distributions...” (Receiver’s Reply, p. 22:14-15). The Receiver then states that Ross  
5 ignores the equity holders “...and considers only the proposed payments made for  
6 CP18’s liabilities and costs in concluding that all creditors are being paid in full”  
7 (Receiver’s Reply, p. 22:1-18).

8 Somewhat shockingly, the Receiver appears to not know the difference between  
9 “creditors” and “equity investors” in CP18, as his defective argument is that “creditors”  
10 are not being “paid in full” if equity holders are not receiving back the full amount of  
11 their investment. This major flaw in the Receiver’s analysis undercuts and obliterates  
12 all of Receiver’s arguments that the Ross Claim is invalid.

13 Corp. Code 15908.09 is very clear as to the hierarchy when winding up a limited  
14 partnership’s activities: when winding up, the assets of the limited partnership must be  
15 applied first to satisfy the limited partnership's obligations to creditors. Any surplus  
16 remaining after paying creditors must be returned to the partners as they share in  
17 distributions (the “equity” return). As the Receiver’s own proposed Distribution  
18 Schedule shows over \$2 Million being distributing to equity holders, by definition the  
19 creditors must have been paid in full. The Receiver’s own proposed Distribution  
20 Schedule is the best evidence that the Ross Claim is indeed valid and the \$137,372.59  
21 proposed equity distribution to CWM must be paid to the Ross Trust, based upon its  
22 valid security interest.

23 Even C Copeland admitted and confirmed in his recent deposition that Copeland  
24 Properties Twelve, L.P. (“CP12”) received the loan from the Ross Trust, and that CWM  
25 granted a security interest to the Ross Trust in its equity interest in CP18. He agreed  
26 that if sale proceeds were being distributed out of CP18, and the Ross Note had not  
27 been paid off (which it has not, Document 333-4, ¶ 11, which Receiver has not  
28 disputed) , then any proceeds which would have gone to CWM should properly go to

1 the Ross Trust, based upon the valid security interest that it holds. (W Ziprick  
2 Declaration, Ex. 1, 437:7-446:7).

3 The Receiver again claims that "Ross's security interest would diminish the  
4 interests of other CP13 investors" (Receiver's Reply, p. 23:19-20). This claim  
5 continues to be false, as the distribution comes not from the other partners' equity  
6 interest, but solely from any distributions on the equity interest of CWM. A security  
7 interest attaches to any identifiable proceeds of collateral. (Uniform Commercial Code  
8 § 9315 (a)(2); see *ITT Commercial Finance Corp. v. Tech Power* (1996) 43  
9 Cal.App.4th 1551, 1556). Equity interests in limited partnerships can be a "general  
10 intangible" or "investment property" and are a valid form of collateral under the  
11 Uniform Commercial Code. (See Uniform Commercial Code § 9-102(a)(49), 9-102  
12 (a)(42), and Uniform Commercial Code § 9-102(a)(12)(B).) Thus, a security interest  
13 taken against the equity interest in a limited partnership attaches to any identifiable  
14 proceeds of the equity interest in the limited partnership given as security. Because  
15 Ross's security interest was against CWM's equity interest in CP18, Ross has a right to  
16 identifiable proceeds in the amount of CWM's equity distribution. This does not  
17 diminish any other LP's assets, since the proceeds that Ross would receive come only  
18 from CWM's equity interest, not the equity interests of the other CP18 LPs.

19 The Receiver also argues in the Receiver's Reply that "the debt is not owed by  
20 CP18" (Receiver's Reply, p. 22:19-20). We agree, but Receiver's point is irrelevant:  
21 the security interest is in CWM's equity in (and corresponding distributions from) CP18,  
22 not in the assets of CP18. As stated before, Receiver apparently has a hard time  
23 distinguishing debt from equity.

24 Receiver's Reply incorrectly argues that the security agreement impermissibly  
25 purports to transfer CWM's actual interest, and that this is not permissible. Receiver  
26 misses the factual point that the Ross Trust is already an existing LP of CP18, and the  
27 pledge does not in any way violate Corp. Code § 15907.02.

28 The Receiver tries again its worn argument that the underlying purpose of the

1 partnership somehow prevents a partner from pledging their equity interest as a security  
2 interest (Receiver's Reply, p. 24:1-11). This is the equivalent of stating that a  
3 shareholder in IBM could not pledge their stock as a security interest because of the  
4 underlying activities of IBM. Receiver's argument is like comparing apples to broccoli,  
5 and is simply nonsensical.

6 Concerning Receiver's claim that the Ross Trust's security interest is subordinate  
7 to the Receiver, while it is true that a receiver has power, under the control of the court,  
8 to take and keep possession of property (California Code of Civil Procedure § 568), the  
9 receiver acquires no title to the property, but only the right of possession as the officer  
10 of the court. Title remains in those in whom it was vested when the appointment was  
11 made. (*North v. Cecil B. DeMille Productions, Inc.* (1934) 2 Cal. 2d 55, 58). The  
12 receiver also takes the property in the condition in which it exists and subject to all liens  
13 and equities of others in it. (*H.D. Roosen Co. v. Pacific Radio Pub. Co.* (1932) 123 Cal.  
14 App. 525, 534). The function of the receiver is to aid the court in preserving and  
15 managing the property involved in a particular lawsuit for the benefit of those to whom  
16 it can ultimately be determined to belong. (*Free Gold Mining Co. v. Spiers* (1901) 135  
17 Cal. 130, 132.)

18 In sum, the receiver, as a custodian of the property is subject to the orders of the  
19 court, and **becomes clothed with the title of the debtor and takes the property**  
20 ***cum onere***—i.e. **in the plight and condition existing at the time of his or her**  
21 **appointment, subject to all liens and equities**, including the right of set-off, and  
22 impressed with the legal and equitable rights and claims of creditors, and no lien or  
23 contract is disturbed or altered by the court's intervention. (*Wright v. Standard*  
24 *Engineering Corp.* (1972) 28 Cal. App. 3d 244, 248, emphasis added).

25 **14. THE CAUSE OF THE LARGE CASH DISCREPANCY AT CP18**

26 When the Receiver could not explain the apparent major discrepancy between the  
27 capital accounts of CP18, on the one hand, and the amount of cash that could be  
28 accounted for, on the other, the Objecting LPs were able to discover during

1 C Copeland’s recent deposition the major cause of this discrepancy. Unbeknownst to  
2 the Objecting LPs, CRI evidently had charged a \$700,000 fee for the assignment of its  
3 rights to purchase property in North Carolina to CP18. CRI took \$700,000 worth of  
4 limited partnership interests in CP18 in exchange for this assignment, but it appeared in  
5 the accounting records of CP18 that cash had come in for this interest. The Receiver  
6 should have been concerned with this discrepancy long ago, and had access to  
7 C Copeland and all of the accounting records.

8 Nonetheless, with this new information acquired in the last two weeks, Objecting  
9 LPs are withdrawing their request for further investigation to determine the amounts of  
10 the equity contributions from each of the CP18 LPs, as detailed in ¶¶ 2 and 3 of their  
11 Opposition to the Motion.

12 **15. CONCLUSION/REQUESTED ORDER**

13 The Objecting LPs request that this Honorable Court order that the Objecting  
14 LPs’ Proposed Revised Distribution Schedule, which is attached as Exhibit 12 to W  
15 Ziprick Declaration<sup>17</sup> (filed concurrently herewith), be adopted and approved in lieu of  
16 the Receiver’s Proposed Distribution Schedule which was attached to Receiver’s  
17 Declaration (Document 319-2) as Ex. A, with the specific revisions being as follows:

18 1. Under “DISBURSEMENTS” – “Other Liabilities”:

19 a. **Delete:**

- 20 i. \$165,466.80 payment to Receivership Estate for “Account 2035  
21 – N/P – Accrued Management Fees”.
- 22 ii. \$200,524.68 payment to the Receivership Estate for “Account  
23 2030 – Note Payable CRI”

24 b. **Add:** CP3 Note Payable:  
25  
26

27 <sup>17</sup> A redlined copy of the Objecting LPs’ Proposed Revised Distribution Schedule for CP18 is attached to the W Ziprick  
28 Declaration as Exhibit 11, showing the proposed modifications to the Receiver’s Proposed Distribution Schedule which  
was attached to Receiver’s Declaration (Document 319-2) as Ex. A.

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- i. \$423,544.11 payment to Ziprick & Cramer, LLP, on behalf of CP3 and its LPs, for “Account 2003 – Note Payable - CP3”, or **in the alternative**
- ii. \$200,524.68 payment to Ziprick & Cramer, LLP, on behalf of CP3 and its LPs, for “Account 2003 – Note Payable - CP3”<sup>18</sup>

2.DISBURSEMENTS” – “Equity”

- a. **Add** \$165,466.80 to the “Net Proceeds for Distribution” to Equity Holders, with appropriate increases in each Equity Holders’ distributions on a pro rata basis (per 1.a.i above)
- b. Remove any “withhold” on the funds payable to “Janet Ihde IRA”, so that “Janet Ihde IRA” will receive the full amount of its distributions
- c. Change the payee on any equity distribution amount payable to CWM Real Estate (currently at \$137,372.59, as will be increased pro rata per 2.a) from CWM Real Estate to Melvyn Ross, Trustee for the Melvyn & Ruth Ross Revocable Trust, pursuant to the security interest granted to the Ross Trust on or about 12/16/2009 by CWM Real Estate on its equity interest in CP18.

Respectfully submitted,

ZIPRICK & CRAMER, LLP

By: /s/ William F. Ziprick

William F. Ziprick

Attorneys for Objecting LPs: Janet Ihde,  
Charles Schwab FBO Janet Ihde IRA, Sandra  
Hayes, Melvyn and Ruth Ross, Melvyn and Ruth  
Ross Revocable Trust, Joseph and Beth Dotan,  
Dotan Family Trust

<sup>18</sup> Exhibits 11 & 12 use the more conservative \$200,524.68 payment figure (the second alternative under 1.b.ii above). Should the Court agree that the full \$423,544.11 is owed on the CP3 Note Payable, then the payment under “Other Liabilities” to CP3 would accordingly be increased, with pro rata decreases to the distributions under the Equity Distributions section.

1 Robert H. Ziprick, SBN 069571  
2 William F. Ziprick, SBN 096270  
3 **ZIPRICK & CRAMER, LLP**  
4 707 Brookside Avenue  
5 Redlands, California 92373  
6 Telephone (909) 798-5005 / Facsimile (909) 793-8944

7 Attorneys for Janet Ihde, Charles Schwab FBO Janet Ihde IRA,  
8 Sandra Hayes, Melvyn and Ruth Ross, Melvyn and Ruth Ross  
9 Revocable Trust, Joseph and Beth Dotan, Dotan Family Trust

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14  
15 Plaintiff,

16  
17 v.

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

24 Defendants.  
25 \_\_\_\_\_

} Case No.: 2:11-cv-08607-R-DTB

} **DECLARATION OF**  
} **WILLIAM F. ZIPRICK IN**  
} **SUPPORT OF OBJECTING LPS'**  
} **SUR-REPLY TO RECEIVER'S**  
} **REPLY TO OBJECTING LPS'**  
} **OPPOSITION TO RECEIVER'S**  
} **MOTION FOR ORDER: (1)**  
} **APPROVING THE RECEIVER'S**  
} **DISTRIBUTION OF ASSETS TO**  
} **THE INVESTORS OF COPELAND**  
} **PROPERTIES 18, L.P.; AND (2)**  
} **AUTHORIZING TERMINATION**  
} **AND CANCELLATION OF**  
} **COPELAND PROPERTIES 18, L.P.**  
} **AS AN ENTITY**

} Date: October 21, 2013

} Time: 10:00 a.m.

- Ctrm: 8, 2nd Floor

Judge: Hon. Manuel L. Real

1  
2 I, WILLIAM F. ZIPRICK, declare as follows:

3 1. I am over the age of eighteen (18) years and am not a party to the above-  
4 entitled action.

5 2. I have personal knowledge of the matters set forth herein, except as to  
6 those matters stated upon information and belief, and as to those matters, I believe  
7 them to be true. If called upon as a witness, I could and would competently testify  
8 thereto.

9 3. I am an attorney representing certain Limited Partners of Copeland  
10 Properties 18, LP (“CP18”): Charles Schwab FBO Janet Ihde IRA, Dotan Family  
11 Trust, Sandra Hayes, and Melvyn and Ruth Ross Revocable Trust (Objecting LPs),  
12 and others.

13 4. On September 23 and 24, 2013, I was involved with taking the  
14 continuing deposition of Charles Perry Copeland (hereafter “C Copeland Depo”). I  
15 have attached hereto and incorporated herein by this reference as Exhibit 1 true and  
16 correct copies of relevant pages of the C Copeland Depo transcripts (“Transcript”). C  
17 Copeland has reviewed the transcripts, executed the Penalty of Perjury Certificate and  
18 has indicated there are no changes to the Transcript.

19 5. I have attached hereto and incorporated herein by this reference as  
20 Exhibit 2 a copy of the Limited Partnership Agreement for Copeland Properties 18,  
21 L.P. (“CP18”), from the continuing deposition of C Copeland taken on 2/1/13, with  
22 said Agreement being marked as Exhibit 102 in that deposition volume.

23 6. I have attached hereto and incorporated herein by this reference as  
24 Exhibit 3 a chart prepared by my office summarizing the cash distributions made to  
25 the limited partners of CP18 for each of the years 2011-2013, which was prepared  
26 from information from the Receiver’s (Thomas Hebrank’s) Declaration (Document  
27 356-1, Exhibit 3) detailing the capital accounts for the CP18 Limited Partners.  
28



1           7. To the best of my recollection, and from my review of the CP18 related  
2 documents obtained from the Receiver, I do not recall seeing any documents  
3 approving any amendment to the CP18 Limited Partnership Agreement, or purporting  
4 to amend the CP18 Limited Partnership Agreement.

5           8. I have attached hereto and incorporated herein by this reference as  
6 Exhibit 4 a chart prepared by my office summarizing the total cash distributions  
7 collectively made to the limited partners of CP18 for each of the years 2007-2013,  
8 which was prepared from information from the Receiver's Declaration (Document  
9 356-1, Exhibit 3) detailing the capital accounts for the CP18 Limited Partners. This  
10 information showed that the total cash distributions did not collectively meet the 6%  
11 annual promised distribution threshold over the seven year period.

12           9. I have attached hereto and incorporated herein by this reference as  
13 Exhibit 5 a copy of the Deposit Receipt and Real Estate Purchase Contract dated  
14 10/20/2006 for the acquisition by Tri Tool, Inc. ("Tri Tool"), of the property and  
15 building owned by CP3 ("CP3 Building") in Rancho Cordova, California, and the  
16 Wrap Around Parcel (as defined below). This Exhibit 5 is from the continuing C  
17 Copeland Depo taken on 9/23/13, with said Deed being marked as Exhibit 129 to the  
18 deposition.

19           10. I have attached hereto and incorporated herein by this reference as  
20 Exhibit 6 a copy of the Limited Partnership Agreement for Copeland Properties Three,  
21 L.P. ("CP3"), from the deposition of Joseph Dotan taken on 12/10/12, with said  
22 Agreement being marked as Exhibit 18 to that deposition.

23           11. I have attached hereto and incorporated herein by this reference as  
24 Exhibit 7 a copy of the Grant Deed for the acquisition by Copeland Realty, Inc.  
25 ("CRI"), of the parcel ("Wrap Around Parcel") which was adjacent to the property and  
26 building owned by CP3 in Rancho Cordova, California (recorded on 11/22/2005),  
27  
28

1 from the continuing C Copeland Depo taken on 9/23/13, with said Deed being marked  
2 as Exhibit 134 to that deposition.

3 12. From the Closing Statement which is attached to the Receiver's  
4 Declaration (Document 356-1, Ex. 10), with which I am familiar, and from the  
5 deposition testimony of C Copeland, I am informed and believe that the payoff of the  
6 loan in the principal balance of \$572,416.66 to Angerson & Anderson, as the first  
7 entry under the category of "Payoff Loan(s)", was to pay off the underlying loan of  
8 CRI secured by CRI's Wrap Around Parcel.

9 13. I have attached hereto and incorporated herein by this reference as  
10 Exhibit 8 a copy of the CP3 QuickBooks Report for "Account 2020 – Note Payable  
11 CRI", which Report came from the CP3 QuickBooks company (computer) file we  
12 obtained from the Receiver.

13 14. I have attached hereto and incorporated herein by this reference as  
14 Exhibit 9 a copy of the 5/3/2005 Letter/Subordination Commitment from CRI to All  
15 Limited Partners of CP3, from the deposition of Joseph Dotan taken on 12/10/12, with  
16 said Agreement being marked as Exhibit 22 to the deposition.

17 15. I had brief conversations at the Courthouse with Receiver's Attorney  
18 John Stephens both immediately before and after a hearing at the Federal Court on  
19 August 19, 2013. This was three days after his office had electronically served my  
20 office with the Motion For Order: (1) Approving The Receiver's Distribution Of  
21 Assets To The Investors Of Copeland Properties 18, L.P.; And (2) Authorizing  
22 Termination And Cancellation Of Copeland Properties 18, L.P. As An Entity. These  
23 brief conversations could in no way be construed as the "Meet and Confer" required  
24 before filing of the Motion.

25 16. I have attached hereto and incorporated herein by this reference as  
26 Exhibit 10 a copy of the Second Amended Complaint filed on 4/4/2011 in the matter  
27  
28

1 of Tri Tool, Inc. v. Copeland Properties Three, L.P., et al, Sacramento County  
2 Superior Court Case Number 34-2009-00054045.

3 17. I have attached hereto and incorporated herein by this reference a  
4 redlined version (Exhibit 11) and a final version (Exhibit 12) of Objecting LPs'  
5 Revised Proposed Distribution Schedule for CP18, which revises the Receiver's  
6 Proposed Distribution Schedule which was attached to Receiver's Declaration  
7 (Document 319-2) as Ex. A.

8 I declare under penalty of perjury under the laws of the State of California that  
9 the foregoing is true and correct and if called upon to testify in this matter, I could and  
10 would testify as set forth above.

11 This Declaration is made this 7th day of October, 2013, in Colbert, Washington.

12  
13 /s/ William F. Ziprick

14 William F. Ziprick  
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# EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

TRI TOOL INC., a Nevada	)	
corporation,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO.:
	)	34-2009-00054045
COPELAND PROPERTIES THREE,	)	
LP, a California limited	)	
partnership; CHARLES P.	)	
COPELAND, an individual; DONALD	)	
E. COPELAND, an individual,	)	
et al.,	)	
	)	
Defendants.	)	
	)	

DEPOSITION OF : CHARLES P. COPELAND, VOLUME II  
TAKEN BY : ROLLIE PETERSON, ESQUIRE  
Commencing : 10:35 A.M.  
Location : 707 Brookside Avenue  
Redlands, California 92373  
Day, Date : Monday, September 23, 2013  
Reported by : MICHELLE CASTELLANOS, C.S.R. NO. 11699  
Pursuant to : Notice  
Original to : THE WITNESS

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JOB NO. 133807

APPEARANCES OF COUNSEL

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FOR THE PLAINTIFF:           LAW OFFICES OF PETERSON & KELL  
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HAYES, MELVYN ROSS & JOSEPH DOTAN:  
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707 Brookside Avenue  
Redlands, California 92373  
(909) 798-5005  
BY: WILLIAM F. ZIPRICK, ESQUIRE

FOR THE DEFENDANTS NEAL BRICKER AND LILLIAN FRANKLIN:  
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THE VIDEOGRAPHER:           Ali Saheb-Nasab  
Dean Jones Videos

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I N D E X

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116	CP Eighteen General Ledger As of Sept 17, 2013	247
117	CP Eighteen Balance Sheet Detail As of March 31, 2007	251
118	CP Three Check Detail Jan 1, 2004 - Sept 19, 2013	257
119	CP Three General Ledger As of Sept 19, 2013	260
120	CP Three Account Quick Report	268
121	11/6/06 Letter Re: CP Three to Limited Partners	309
122	CP Three Statement of Cash Flows Jan 1, 2004 - Sept 19, 2013	313
123	11/30/06 Subscription Agreement	315
124	3/7/07 Letter to Mrs. Hayes from Donald Copeland	319
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128	Addendums to Real Estate Purchase Contract	336
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130	Declaration of Jim B. Dismukes	370
131	Assignment of Leases and Rents	379
132	12/20/06 Letter to Louie Jones from CB Richard Ellis with Attached E-Mails	381
133	Grant Deed	385
134	Grant Deed	387
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136	Unanimous Consent of Partners of CP Three in Lieu of a Meeting	395
137	Risk Disclosure Statement	403
138	4/13/09 Letter to Donald Copeland from Frank Wernette	405

INFORMATION REQUESTED

(None)

QUESTIONS NOT ANSWERED

(None)



1 got it through them.

2 Q In the last couple months, have you talked to  
3 the receiver?

4 A I talked to a representative of the receiver  
5 this morning.

6 Q And who was that?

7 A One of their -- one of the accountants working  
8 for them on one of -- on the CP Eighteen matter.

9 Q And what did that discussion entail?

10 A It was asking some questions about the general  
11 ledger of CP Eighteen and the origination of a note  
12 payable to Copeland Realty from CP Eighteen.

13 Q Now, Copeland Realty, Inc., actually did a name  
14 change, I think, sometime at the end of 2007, early 2008,  
15 and became Copeland Wealth Management Real Estate;  
16 correct?

17 A Yes.

18 Q Same entity; right?

19 A Exactly same entity.

20 Q So the books and records for CRI then just kept  
21 on going except in the name of Copeland Wealth Management  
22 Realty?

23 A That's correct.

24 Q So if I -- and if I refer to Copeland Wealth  
25 Management Realty as CWMRI, you understand that --

1 A Yes.

2 Q -- to be the same?

3 A Yes, I would.

4 Q From time to time today, I'll be referring to  
5 Copeland Properties Three, a California limited  
6 partnership. And I'll refer to it as CP Three.

7 Will you understand that to be one and the same?

8 A Yes, I will.

9 Q Also there is another entity, Copeland  
10 Properties Fourteen, okay, a California limited  
11 partnership. I'll be referring to it as CP Fourteen.

12 Do you understand?

13 A Yes.

14 Q And a third limited partnership that I'll refer  
15 to is -- will be Copeland Properties Eighteen, a  
16 California limited partnership. I'll be referring to it  
17 as CP Eighteen, and you'll understand that to be one and  
18 the same?

19 A Yes.

20 Q And as a matter of fact, I think from time to  
21 time you've referred to a number of entities that you had  
22 set up at some point from the year maybe 2000 to 2007 or  
23 '08 as a CP One, CP Two, so on, so forth; correct?

24 A Correct.

25 Q And they were all essentially limited

1 Copeland Real Estate, Inc., contracted to buy and bought  
2 in the name of CP Three a building in Rancho Cordova on  
3 Sunrise Boulevard that was leased by the United States  
4 Internal Revenue Service; correct?

5 A Correct.

6 Q And in that particular transaction, the IRS had  
7 a lease in which they could vacate the building; correct?

8 A That's correct.

9 Q As a matter of fact, that was a disclosure I  
10 think you made to at least one of the limited partners  
11 that I've seen. And I didn't have any other information,  
12 but do you believe you made that disclosure to all of  
13 them?

14 A I believe so, yes.

15 Q You own 70 percent or owned 70 percent of CRI;  
16 correct?

17 A Just less than 70 percent. I own two-thirds.  
18 My son Don owns one-third.

19 Q And Donald was the president of CRI?

20 A Yes.

21 Q And you were vice president?

22 A Correct.

23 Q You both sat on the board of directors?

24 A Yes.

25 Q And you both had authority to act on behalf of

1 that I'm looking at that authorizes it is dated  
2 February 15, 2007, and the transaction paying it off, I  
3 think was shortly thereafter, but I don't remember the  
4 exact date.

5 Q BY MR. PETERSON: This is a document that we had  
6 given you -- actually, I think maybe you had produced it  
7 at your last deposition, and it's Exhibit No. 113. It  
8 has a number of various financial documents in it. And I  
9 think you testified at the end of the day for CP Three,  
10 that there was a negative liability in the partnership  
11 when it wrapped up CP Three of about a hundred and ninety  
12 some odd thousand dollars. \$191,410.68 was the exact  
13 number as of the end of its business.

14 A What was the figure?

15 Q \$191,410.68.

16 A That is the equity that CRI had in Copeland  
17 Properties Three.

18 Q At the end of the day, that's the -- Copeland  
19 Properties Three didn't get its equity because the  
20 partnership was upside down \$191,410.68; correct?

21 A Copeland -- Copeland Realty was not entitled to  
22 its equity.

23 Q Right.

24 A Because it had not fulfilled its obligations of  
25 the required distributions to the limited partners per

1 the partnership agreement. And this was the amount that  
2 it repaid -- needed to repay in order to make the  
3 obligations to the limited partners exactly what they  
4 should have been.

5 Q And that did not include the \$200,000 that  
6 CP Three had in liabilities, contingent liabilities, owed  
7 Tri Tool; right?

8 A That's correct. If -- if that had been recorded  
9 on the books, this number would have been 391,000 that  
10 CP Three would have had to turn in to Copeland Properties  
11 Three -- Copeland Realty would have had to transfer to  
12 Copeland Properties Three.

13 MR. PETERSON: Gentlemen, I don't have any  
14 further questions.

15 MR. ZIPRICK: Can I just -- the last point  
16 there, if I can to clarify, so to -- just to go through  
17 what you were saying, Mr. Copeland, you're saying if the  
18 200,000 had been booked on the records of CP Three, that  
19 Copeland Properties would have reduced that note amount  
20 by another 200,000?

21 THE WITNESS: Copeland Realty --

22 MR. ZIPRICK: Copeland Realty.

23 THE WITNESS: -- would have owed back to -- if  
24 Copeland Properties Three had -- let's call it paid. Had  
25 paid that, then Copeland Real Estate would have had to

1 send in 391,000 rather than 191,000. The ending entry on  
2 the books would have showed Copeland Realty getting only  
3 a -- leaving a capital account of 391,000 behind when the  
4 partnership closed.

5 MR. ZIPRICK: So what I hear you saying is that  
6 if there was a negative balance on that account, Copeland  
7 Realty would have written off whatever amount it needed  
8 to get it back to zero.

9 THE WITNESS: Correct. Yeah. If you read the  
10 partnership agreement, the partnership agreement says  
11 that there can be no payment to the general partner  
12 unless, and that "unless" gives you criteria. One of  
13 those criteria is that there is a 6 percent distribution  
14 to the limited partners over and above their initial  
15 capital investment per year. So you calculate however  
16 long the partnership went, what the distributions to the  
17 partners were, and if they are less than 6 percent or if  
18 less than the full capital account is returned to the  
19 partners, then Copeland Realty has the obligation to  
20 return any monies that it got out of the partnership.

21 Copeland Real Estate got a commission when the  
22 property closed and it got management fees during the  
23 period of ownership time, and the sum total of those two  
24 amounts would have been Copeland Realty's obligation to  
25 Copeland Properties Three in the event the owner -- the

1 partners of Copeland Properties Three did not get a  
2 return of capital and a 6 percent return on their capital  
3 per year during the time the partnership was open.

4 MR. ZIPRICK: Thank you.

5 MR. PETERSON: Let's adjourn for how long?

6 THE WITNESS: I have a lot to do, but I showed  
7 up late so I don't have any right to claim.

8 MR. PETERSON: You were saying that you needed  
9 to --

10 THE WITNESS: I have to communicate with the  
11 IRS.

12 MR. PETERSON: We can go off the record, I  
13 think, and then we can talk about this.

14 THE VIDEOGRAPHER: The videotaped deposition is  
15 now going off record at 12:46 p.m.

16 (A lunch recess was taken from  
17 12:46 p.m. to 2:05 p.m.)

18 THE VIDEOGRAPHER: The videotaped deposition is  
19 now returning to record at 2:05 p.m.

20

21 EXAMINATION

22 BY MR. ZIPRICK:

23 Q All right. Mr. Copeland, just when we -- just  
24 before our break there, Mr. Peterson was just asking and  
25 this was in regards to the CRI note from CP Three, and

1 least this was the document that was in the file and  
2 appears to be the most complete set of a partnership  
3 agreement which is circulating out there right now.

4 So let me -- as you're looking at this, I'm just  
5 going to go to a few -- a few things there. And I'll  
6 turn your attention to page 6 and then Article 4 and then  
7 4.02, open paren, one, closed paren.

8 Would this be the provision you were referring  
9 to earlier, Mr. Copeland, as far as the 6 percent return  
10 there?

11 A Correct.

12 Q Okay. So this is the document. Was that a  
13 fairly common practice for you with the various, I'll  
14 call them the CP partnerships?

15 A This was a common practice for us in everything  
16 we were doing.

17 Q Okay. So in a sense it's off the top -- the top  
18 priority was the investors' funds and their at least up  
19 to 6 percent rate of return?

20 A Correct.

21 Q Okay. Let me turn you back to the first page  
22 here of the partnership agreement and just Section 1.06.  
23 In fact, let me -- let me ask you this. Your background  
24 is obviously is a CPA.

25 A Correct.



1 general partner will execute the cost to be filed,  
2 certificates of limited partnership for each partnership,  
3 and it'd be your belief sitting here that you would have  
4 filed one for CP Three as well?

5 A Yes.

6 Q Yeah. Okay. And that this also provides that  
7 if there's a change -- well, execute, file original or  
8 amended certificate. So if there was a change in the  
9 general partner, then you would file an amendment?

10 A If there was a change in the general partner,  
11 the general partner had the responsibility for filing an  
12 amendment to it.

13 Q Okay. All right. Let me just have you turn  
14 over to, I believe, it's 7.05. Yeah. Salaries of  
15 general partner. If you'd take a look at that and maybe  
16 just read that for us.

17 A "Salaries of the general partner" is the  
18 heading. Paragraph 7.05 on page 12 of 27, "The general  
19 partner shall be paid a flat fee annually as outlined in  
20 Paragraph 4.02.2."

21 Q And would that be the management fee that you  
22 were referring to earlier?

23 A Yes.

24 Q Which would be one of the components of the  
25 potential offset for the partners getting their return

1 back and their 6 percent?

2 A Correct.

3 Q Or I should say their initial investment and  
4 their 6 percent?

5 A Correct.

6 Q Okay. So this is the provision. Would you  
7 generally have any type of management contract above and  
8 beyond this, or is this normally what would serve as the  
9 contract, if you will?

10 A This was the contract.

11 Q Okay. Let's just take a look at 7.06(a)(5) on  
12 page 13. Actually I may go -- you know, let me go up to  
13 two first. Same section there, 7.06(a)(2). And this  
14 section, I believe, is what refers to as the voting  
15 rights of limited partners and saying that limited  
16 partners have the right to vote on the following matters.

17 Would you just read that No. 2 for us.

18 A "The merger of the partnership or the sale,  
19 exchange, lease, mortgage, pledge, or other transfer of  
20 or granting of security interest in, all or a substantial  
21 part of the assets of the partnership other than in the  
22 ordinary course of its business."

23 Q Okay. And so that would have applied -- or let  
24 me ask you this.

25 Do you believe that would have applied to the

1 sale of the property then to Tri Tool?

2 A Yes.

3 Q Yes. Okay. And we'll take a look here in a few  
4 minutes at the underlying consent on that. So that would  
5 be the basis for why you would get the consents of the  
6 limited partners would be this provision here?

7 A Correct.

8 Q And then we'll go down to 5. Just I'll have you  
9 read that there too.

10 A "The transactions in which the general partner  
11 has an actual or potential conflict of interest either  
12 with the limited partners or the partnership."

13 Q Okay. So would that mean to you that if you had  
14 a transaction with the general partner and CP Three, that  
15 those -- that would be the situations where you'd have  
16 the limited partners vote on that?

17 A Say that again.

18 Q So if -- let's say if CP Three had a transaction  
19 with Copeland -- let's say Copeland Realty was doing  
20 business with them in some other form or fashion, would  
21 that be the type of transaction that this would apply to?

22 A Yes.

23 Q Okay. So that would then require the limited  
24 partners to vote on that --

25 A Yes.

1 Q -- to approve it. Okay.

2 Then if you look under B, right below that, same  
3 page, so this would be 7.06(b), it specifies there, it  
4 appears, what the percentage that's required for those  
5 votes, and what percentage is that?

6 A Sixty-seven percent.

7 Q Okay. So that's the threshold then for any of  
8 these; correct?

9 A Correct.

10 Q Is that fairly standard across the various CP  
11 partnerships?

12 A Yes.

13 Q In fact, would you say was it your general  
14 practice that -- if I can use that term -- you kind of  
15 had your set form that you had approved and used, and  
16 this would be this form, other than you would put in the  
17 specific things which would be different for the  
18 particular partnership?

19 A That would be fair to say.

20 Q Okay. We'll just look at 7.8 for a minute, and  
21 I'll just have you read that provision there too on  
22 page -- I'm sorry -- page 14.

23 A "Except as otherwise provided in this agreement,  
24 a partner may not transact other business with the  
25 partnership."

1 good, they're making so much money, the general partner  
2 has the authority to approve the deal. It doesn't have  
3 to go back to the limiteds because --

4 A Correct.

5 Q -- they're going to come out well.

6 Okay. And -- which makes me think. Let me  
7 just -- let me go back to as well -- let me go back to  
8 page 2. And this is, Mr. Copeland, 1.076 in the  
9 Definition section, if you would read that to us.

10 A "General partner refers to Copeland Realty,  
11 Inc., or any successor."

12 Q And as well just on the first page, the very  
13 first paragraph in the preamble, if you'd just read that  
14 for us too. And if you'd just read that for us.

15 A Where -- what are you referring to?

16 Q Just the preamble on the very first page, just  
17 the very first paragraph there.

18 A "Agreement of the limited" --

19 Q Yeah.

20 A -- "partnership made this 23rd day of  
21 February 2004 by and between Copeland Realty, Inc.,  
22 general partner, and the limited partners."

23 Q So it's really clear under the agreement from  
24 both the first paragraph we read and from the  
25 definitions, that the general partner is Copeland Realty,

1 Inc.

2 A Correct.

3 Q Okay. And as far as your understanding, did  
4 that ever change during the term -- I'll call it the life  
5 of CP Three?

6 A No.

7 Q So from start to finish, Copeland Realty, Inc.,  
8 was the only general partner?

9 A Correct.

10 Q Okay. And let me find -- let me turn to just  
11 page 7. Under Article 5 -- and what's the title of that  
12 section?

13 A Control and Management.

14 Q Yes. Okay. And if you would read just the  
15 first sentence of 5.01.

16 A "The general partner has the sole and exclusive  
17 control of the limited partnership."

18 Q That seems fairly broad, fairly conclusive.  
19 That, I mean, basically when it comes to control of the  
20 limited partnership, the general partner, which would be  
21 Copeland Realty, has that sole and exclusive control?

22 A Is that a question?

23 Q Yes.

24 A Yes.

25 Q Yes. Okay. And then underneath that 5.011, and

1 a vote on that, the limited partners would not have to be  
2 involved really in the process?

3 A Correct.

4 MR. PETERSON: It says, "Subject to any  
5 limitations set forth in this agreement, the general  
6 partner has the power and authority." Did you see 7.06  
7 as being a limitation on your powers -- under 5.01 -- at  
8 least as to those subjects?

9 THE WITNESS: 7.06 and the 67 percent control  
10 issue by the limited partners would come into effect when  
11 the sale of the property would be less than 20 percent  
12 annual return. And that would be deemed a restriction  
13 that's identified in this paragraph.

14 MR. ZIPRICK: Any others, Rollie?

15 MR. PETERSON: No.

16 Q BY MR. ZIPRICK: Okay. Let's just take a look.  
17 We're at 5.013. And let me just have you read that one  
18 too.

19 A "Finance the partnership activities by borrowing  
20 money from third parties on the terms and under the  
21 conditions as the general partner deems appropriate.  
22 When money is borrowed for the partnership purposes, the  
23 general partner is authorized to pledge, mortgage,  
24 encumber, or grant a security interest in the partnership  
25 properties as security for the repayment of those loans."

1 Q Okay. So would it be a fair statement to say  
2 that as far as financing or borrowing any money from the  
3 partnership, that that's something that was exclusively  
4 the general partner had that authority?

5 A Yes.

6 Q Okay. So no one else could do that on behalf of  
7 the partnership?

8 A That's correct.

9 Q Okay. And would that also tie into when you're  
10 borrowing, lending, anything along those lines, executing  
11 the documents, it goes along with that?

12 A Yes.

13 Q And as it refers to pledges, mortgages,  
14 encumbrances, so that would include the promissory note,  
15 security agreements, deeds of trust, all of those things,  
16 that's something that only the general partner could do?

17 A Only the general partner could do it. If it was  
18 in a conflict of interest situation, the limited partners  
19 might have to approve the general partner's actions, but  
20 no one other than the general partner could deal with  
21 that process.

22 Q Okay. Fair enough. They're the only ones who  
23 had the authority to be able to do that?

24 A That's correct.

25 Q Nobody else could?



1 instance, under this provision would Copeland Realty be  
2 able to sue the partnership? Let's say the partnership  
3 had no assets left.

4 A Could sue the partnership. It couldn't sue the  
5 limited partners.

6 Q Couldn't sue the limited partners. So in a  
7 sense, and if the limited partnership had no assets,  
8 effectively it would have to write the debt off?

9 A Yeah. It would be foolish to expend the legal  
10 fees.

11 Q Right. In a sense almost suing itself.

12 A Yeah.

13 Q Okay.

14 THE VIDEOGRAPHER: Five minutes left on this set  
15 of tape.

16 MR. ZIPRICK: Okay. Do you want to just stop  
17 right there?

18 THE VIDEOGRAPHER: It's up to you.

19 MR. ZIPRICK: Well, you know what, let's just --  
20 we'll do a couple more minutes.

21 Q BY MR. ZIPRICK: Okay. So this, in a sense, is  
22 another independent basis above and beyond what you had  
23 already testified to, which I appreciated, on the 6  
24 percent and the fees, that this is kind of also an  
25 overriding that Copeland Realty, as the general partner,

1 is liable for -- certainly for debts and obligations of  
2 CP Three. It just says it's unrestricted liability for  
3 that.

4 Is that -- is that a fair statement?

5 A Yes.

6 Q Okay. Would that be the case also on the  
7 \$200,000 note which we've -- we'll come back to, but I  
8 think you're aware of the \$200,000 note that came about  
9 from the close of the escrow. To the extent that  
10 CP Three did not have the ability to make payments on  
11 that, that Copeland Realty, under this provision, would  
12 be obligated to pay that?

13 A It would be obligated under this provision. It  
14 would also have been obligated under its guarantee of  
15 that note.

16 Q Got it. Okay. So to the extent that Copeland  
17 Realty had assets, they would be subject to making  
18 these -- making those payments?

19 A Yes.

20 Q And if there was money owed from CP Three to  
21 Copeland Realty, would it be a fair statement to say that  
22 CP Three would have the right to offset against that  
23 obligation on the 200,000 against the amount that it  
24 would owe to Copeland Realty?

25 MR. PETERSON: The way you phrased, calls for a

1 legal conclusion unless he's rendering, you know, his  
2 understanding to the agreement. If that's the case, then  
3 that's fine.

4 MR. ZIPRICK: And I would say just as you would  
5 understand it is a good clarification there.

6 MR. PETERSON: Right.

7 THE WITNESS: It's significantly more  
8 complicated than you stated it. If CP Three owed money  
9 to Copeland Realty, and there were some obligations that  
10 Copeland Realty had to -- under this provision, CP Three  
11 may well be within its legal rights to do an offset on  
12 that.

13 MR. ZIPRICK: Okay. That's fair enough. Okay.

14 THE WITNESS: Did I sound like a lawyer?

15 MR. PETERSON: Like a banker.

16 MR. ZIPRICK: You were --

17 MR. PETERSON: That's a banker's word, "offset."

18 MR. ZIPRICK: Oh, yeah. I'm sorry. Yeah, we'll  
19 break here for the tape change.

20 THE VIDEOGRAPHER: The videotaped deposition is  
21 now going off record at 2:55 p.m. This will also  
22 conclude Video No. 2 in today's deposition.

23 (Off the record.)

24 THE VIDEOGRAPHER: The videotaped deposition is  
25 now returning to record at 3:03 p.m. This will also

1 begin Video No. 3 in today's deposition.

2 Q BY MR. ZIPRICK: All right. I think that's it  
3 for the partnership agreement for right now. We'll come  
4 back.

5 I'm going to show you another document, and this  
6 is actually Exhibit 22 previously. I think -- does this  
7 document look -- does this look familiar at all as you  
8 look at it here?

9 A Yes, I believe we looked at this earlier today.

10 Q Correct. And this was the -- a memorandum dated  
11 May 3, 2005, signed by Don Copeland for Copeland Realty?

12 A Yes.

13 Q Okay. And I think we talked about some of the  
14 stuff about the IRS building, et cetera. And the second  
15 paragraph, maybe I'll have you read just the first  
16 sentence of that, if you would. I think it ties into  
17 what you've been testifying to.

18 A "As general partners, our pledge to you is for  
19 us not to profit unless the limited partners receive at  
20 least 6 percent return on their investment each year."

21 Q Good. And one question on that too. Would it  
22 be your understanding that that is a cumulative 6  
23 percent?

24 A Yes.

25 Q Each year. Okay. And this would be referring

1 to that same 6 percent we've been talking about a little  
2 bit, but you were just reconfirming it for the partners  
3 at that time?

4 A Correct.

5 Q And you were reconfirming it there because of --  
6 with some of the issues with the IRS and the other  
7 things, the concern that you were going to have to  
8 suspend the monthly distribution checks for a period of  
9 time and so was it kind of a reassurance that we haven't  
10 forgotten about this?

11 A I'm not exactly sure what the motivation was for  
12 this letter. It was a communication to the partners.

13 Q Okay. And Don Copeland is the CEO and also  
14 board member of Copeland Realty as you've testified?

15 A Correct.

16 Q And you two, would it be your practice if you  
17 were going to send something like this out, that normally  
18 you would probably look at it together, talk it over, or  
19 would Don sometimes -- would he have the authority just  
20 to send this off?

21 A Well, Don had the authority to send it off as  
22 the president of the company. He also valued his  
23 position as my son.

24 Q Touche. I understand that fully.

25 So I take it your answer would be is that he

1 would run these things by you, or would this be the type  
2 of thing that you might have even drafted?

3 A I am certain I was involved in this document to  
4 some degree.

5 Q Got it. Okay. So you would have been in full  
6 100 percent agreement with the document before it went  
7 off?

8 A Correct.

9 Q Okay. So let me just draw your attention then  
10 to the third paragraph and just have you read that as  
11 well.

12 A "Copeland Realty will make a subordinated loan  
13 to the partnership to cover all costs until the property  
14 covers its cost. The loan will be subordinated to the  
15 first mortgage and to all limited partners' initial  
16 contributions."

17 Q Okay. And in your lay terminology here, what  
18 would that -- what would that mean to you? What were you  
19 or you and Don conveying to the limited partners there?

20 A We're going to keep the partnership running  
21 until we can sell it. When we sell it, you'll get your  
22 money back and your return before we get the money that  
23 we put into this to keep it going.

24 Q Okay. And that would be the basis of using the  
25 term "subordinated loan"?

1 A Correct.

2 Q Okay. And what's the date again on this  
3 document?

4 A May 3, 2005.

5 Q Okay. So I'd just like to draw your attention  
6 back to Exhibit 120 for a moment. And I think that --  
7 yes, that's -- that's fine there. It is the note payable  
8 for CRI.

9 A Correct.

10 Q The QuickBooks. Okay. So is it a fair  
11 statement, because this document we just looked at where  
12 you all were agreeing with CP Three to make subordinated  
13 loans to keep the business going during this -- that  
14 time, that that's on May 3rd. And it appears if I'm  
15 reading this right on the QuickBooks report for the  
16 Account 2020, note receivable, CRI, that within a couple  
17 months -- actually with the first entry being 7/31/2005,  
18 that would have been the first subordinated loan pursuant  
19 to this transmittal.

20 Is that a fair --

21 A That's correct.

22 Q Okay. So would it be a fair statement to then  
23 say that because there were various -- as we look down  
24 through here on the QuickBooks report, there were various  
25 loans which were made. Then there were some payments

1 back on this. But that these loans here were part of  
2 this subordination, that they would be deemed a  
3 subordinated loan?

4 A Correct.

5 Q So everything on this sheet, all this would be  
6 subordinated?

7 A All -- everything on this is what we were  
8 talking about in this letter that you've just asked me to  
9 look at.

10 Q Great. Okay.

11 MR. PETERSON: Just for record purposes, "this  
12 letter" being Exhibit 22.

13 THE WITNESS: This letter being Exhibit 22 of  
14 the Dotan deposition.

15 MR. ZIPRICK: Deposition. Right.

16 MR. PETERSON: And the subordinated portion is  
17 coming off of Exhibit 120.

18 MR. ZIPRICK: Yes, 120 is what we were referring  
19 to when you were saying that these were all --

20 THE WITNESS: And the subordinated document is  
21 Exhibit 120 of the C. Copeland deposition.

22 MR. PETERSON: I don't mean to be a pest. Just  
23 trying to keep this record --

24 MR. ZIPRICK: Absolutely.

25 Q BY MR. ZIPRICK: So this -- this is -- another



1 description of this would be this is a -- this is the  
2 accounting record of the ongoing balance of that  
3 subordinated -- subordinated loan referred to in the  
4 Exhibit 22?

5 A That's a fair way to classify it.

6 Q Okay. Good. Just one other quick thing I  
7 forgot to mention here too, but I -- just while I'm at  
8 it, on the -- this is on Exhibit 120. Well, strike that.  
9 Okay. I think that's it for that document.

10 Oh, just maybe one other quick question. The  
11 last paragraph there of Exhibit 22 refers to here's  
12 basically what -- since it seems like the memo is saying  
13 here is what we're committing too, but then we're going  
14 to have a meeting to just go through this in more detail,  
15 answer questions, et cetera.

16 A Correct.

17 Q Is that fair? Okay.

18 MR. ZIPRICK: This is -- we'll get to use one of  
19 our stickies. We'll do it on the bottom right; right?  
20 Is that good? This may have been an exhibit on here, but  
21 I'll just put it out there because I don't have --

22 MR. PETERSON: Thanks.

23 MR. ZIPRICK: We have labeled this -- again,  
24 what is that? Exhibit 121?

25 THE WITNESS: Yes.

1           A       I would think we knew specifically that that was  
2       their intent, and their intent -- because this would have  
3       probably matched their capital contribution in CP Three  
4       or the amount they were expecting they were going to get  
5       out of it. And as such, they would be in a position to  
6       have that amount of money roll into CP Eighteen.

7           Q       Right.

8           A       Now, we didn't do it as a 1031 exchange because  
9       there wasn't a good reason for doing that.

10          Q       Right. There wasn't a lot of gain which had  
11       been occurring.

12          A       Correct.

13          Q       So in a sense at the time of doing this  
14       document, the Exhibit 123, you would have been able to  
15       project out there based upon the sales price, realizing  
16       there was a little bit of adjustment with addendums to  
17       that, but to be able to say, okay, that's probably about  
18       the dollar amount that they're going to get out of this  
19       deal is going to be kind of the return of their equity?

20          A       I think we were fairly certain that we would be  
21       kicking in at the end, and we would be kicking in to get  
22       them back their original investment. So we knew how much  
23       they were going to get out. We just didn't know how much  
24       we were going to be kicking in.

25          Q       Got it. And that would tie into the issue we

1 were talking about before of what turned out to be the  
2 phase of adjustments on the CRI note?

3 A Correct.

4 Q So you were already anticipating that there  
5 would be adjustments on that down to whatever it took?

6 A Correct.

7 Q And would it be the same thing, that you  
8 would -- obviously you'd be planning on making  
9 adjustments, what would be necessary to pay the bills of  
10 CP Three, and then do the distributions?

11 A I wouldn't state it that way.

12 Q Okay. Put it in your words.

13 A I would say that it was our intention to return  
14 to the investors their capital amount. Any profits we  
15 would return to them over the years, unless it was over 6  
16 percent, we wouldn't diminish our adjustment to them by  
17 that.

18 And so at this point in time, we were planning  
19 on returning to Joe and Beth what their original capital  
20 contribution in that limited partnership was. We knew  
21 what that was. We just didn't know exactly how much of  
22 that we would have to be contributing ourselves.

23 Q Right. Until the numbers played through?

24 A Right.

25 MR. ZIPRICK: Okay. Very good. Thank you.

1 a new sheet. This will be 125.

2 (Plaintiff's Exhibit 125 was marked  
3 for identification by the court  
4 reporter and is attached hereto.)

5 Q BY MR. ZIPRICK: I'll let you take a look at  
6 that for just a second. Again, Copeland Realty memo.  
7 Don Copeland signing here. Does this look -- another  
8 memo that looks familiar to you? You probably looked at  
9 it before it went out?

10 A I would -- I may not have looked at this one.  
11 This one is just a recording of a transaction. But I  
12 certainly would be in support of it.

13 Q Okay. And this was "To whom it may concern";  
14 correct?

15 A Yes.

16 Q Okay. And then why don't you just -- it's  
17 short. Why don't you just read that paragraph, if you  
18 would, for us.

19 A "This letter is to inform you that Janet Idhe's  
20 account number" -- something. Part of it's blocked  
21 out -- "investment into Copeland Properties Three LP has  
22 been transferred into Copeland Properties Fourteen LP as  
23 of April 1, 2007. Ms. Idhe traded ten units of Copeland  
24 Properties Three for 8.73 units in Copeland Properties  
25 Fourteen for an equal value of \$215,000."

1 Q Okay. So this actually ties into a number of  
2 things we've been talking about here. This is the  
3 transfer of units from CP Three to CP Fourteen for what  
4 appears Dr. Idhe's IRA account --

5 A Correct.

6 Q -- at Charles Schwab.

7 Now, this refers to a date as of April 1, 2007.  
8 I think we were just talking about before, you had  
9 thought on some of those that it was going to be  
10 April 6th. I'm just trying to see if there -- between  
11 that if one or the other was the effective date or was  
12 there a difference here because this was dealing with an  
13 IRA or any -- any thoughts on that?

14 A My thought is that this document has the wrong  
15 date. It should have been April 6th rather than  
16 April 1st.

17 Q Okay. So April 6th you think across the board,  
18 that was the date that the transfer from CP Three units  
19 to CP Fourteen would be completed?

20 A Correct.

21 Q Okay. Would that be the case -- as you referred  
22 to earlier, sometimes it can take a little bit longer to  
23 document things or get them into the accounting records  
24 or other things. Was it your -- as an officer and owner  
25 of the general partner of CP Three, that April 6 was the

1 clean between CP Three and Tri Tool. Then there was  
2 transfer of assets to the -- to the bank to pay off the  
3 advance that --

4 Q That occurred previously?

5 A Correct. Now, I don't know if the bank called  
6 Tri Tool to see if they were thinking they were going to  
7 go through with the transaction before making us the  
8 loan, anybody's due diligence. And we certainly wouldn't  
9 have impeded that investigation, but I don't think we  
10 volunteered it.

11 Q Okay.

12 MR. PETERSON: And you're assuming there was an  
13 investigation.

14 THE WITNESS: You're correct. I'm assuming  
15 there was. There may not have been an investigation by  
16 anybody.

17 MR. PETERSON: Okay.

18 Q BY MR. ZIPRICK: Right. Yeah. Let me come back  
19 and ask you something else here in this, when you read  
20 Paragraph 3 for us. It says, "Copeland Realty shall put  
21 a \$200,000 note, guaranteed by Chuck and Don Copeland,  
22 into escrow."

23 When I read that -- you can see if you agree or  
24 disagree -- that sounds to me that Copeland Realty was  
25 going to be the maker of a note which would go into --

1 into the escrow and not CP Three. What's your take? Is  
2 that what was intended when this was -- when this was  
3 written up?

4 A I wish I could tell you that I recall what was  
5 intended, but I can't. But I can tell you that my  
6 reading of this is the same as yours. It sounds to me  
7 like Don and I had agreed to put this note into escrow  
8 and that we would be responsible for it.

9 That is consistent with what we considered to be  
10 our obligation to CP Three. CP Three's partners were to  
11 get their net contributed capital. And if there were  
12 costs beyond getting that back to them, those were going  
13 to be Copeland Realty's responsibility. And so this  
14 would be consistent with our trying to accomplish that  
15 for them.

16 Q So that almost the -- what your mindset, the  
17 reason when -- if you said if this easement came up,  
18 Copeland Realty, you and Don, looking at it saying this  
19 is an obligation that Copeland Realty should be taking  
20 on?

21 A Yes. If -- if we had reduced the purchase price  
22 by 200,000, the limited partners would have gotten  
23 200,000 less.

24 Q Less.

25 A We contributed X amount in to make them whole.

1 We would have had to have contributed 200,000 more to  
2 make them whole. I think we were buying time, in effect,  
3 when it all boils down to -- for that 200,000 at the  
4 worst case scenario, but we really thought there would be  
5 no responsibility here. We really thought that the  
6 easement would go away.

7 Q It might take some work with legal counsel but  
8 working -- working through the process that -- would you  
9 say a high degree of confidence that you would be able to  
10 take care of the problem?

11 A We spent \$34,000 trying to take care of the  
12 problem.

13 Q Okay. So you would view this -- if you're  
14 familiar with the term "contingent liability"?

15 A (No audible response.)

16 Q This would be at the time this was getting  
17 signed, that this would be a very contingent liability  
18 because you thought that the -- using layman's terms --  
19 that the chances of this note ever getting paid off would  
20 be slim because the easement problem could be taken care  
21 of and eliminated?

22 A We would have rated the chance of success at the  
23 time that this note was being signed, that we would be  
24 able to remove the easement at very high and the chance  
25 that we would not be able to get it removed very low.



1 Q Okay. Coming back here to the \$200,000 note, it  
2 says guaranteed by Chuck and Don Copeland. Would that  
3 then be consistent with the note coming from Copeland  
4 Realty because, as you've testified before, you two are  
5 the owners of Copeland Realty and the officers, and so  
6 then it would be very consistent that you two would agree  
7 to guarantee it as well?

8 A If we had to pay this, we would have planned to  
9 pay it out of Copeland Realty in order to offset  
10 taxation. And so our understanding would be the fact  
11 that we were personally guaranteeing it, somebody would  
12 take care of that for us and that "somebody" would be  
13 Copeland Realty.

14 Q Let me -- this is dated as of -- let's see.  
15 Where is the date on this? I think -- well, let's see.  
16 There's a -- it looks like a fax date.

17 A It's up at the -- the very first line dates it  
18 October 20th.

19 Q Well, I think that is the date of the real  
20 estate purchase contract is the October 20, 2006, date  
21 and not the second addendum. The only -- let's see if  
22 there is a date down at the footer. There is a fax copy  
23 February 6th, but I don't know that that is the --

24 A There is a signature date by Tri Tool on  
25 February 5, 2007.

1 THE WITNESS: I don't recall.

2 MR. BRUBACHER: So when you were testifying  
3 earlier that the escrow instructions could have been  
4 clearer as to who was going to be the maker of that note,  
5 what were you referring to?

6 THE WITNESS: I was not -- I was referring to  
7 the purchase sale agreement that should be incorporated  
8 in the escrow instructions.

9 MR. BRUBACHER: I see. And who did CB Richard  
10 Ellis represent in connection with this purchase?

11 THE WITNESS: They represented the seller.

12 MR. BRUBACHER: Which would be CP Three?

13 THE WITNESS: CP Three.

14 MR. BRUBACHER: That's all.

15 MR. PETERSON: Can I ask?

16 MR. ZIPRICK: Absolutely.

17 MR. PETERSON: You testified earlier in relation  
18 to responsibilities of the general partner under the  
19 limited partnership agreement and that the limited  
20 partner -- I mean general partner generally had unlimited  
21 liability as to the obligations of the partnership while  
22 the limited partners had essentially risk up until the  
23 amount of their investment but nothing over that.

24 THE WITNESS: Correct.

25 MR. PETERSON: And so if you look in the escrow

1 instruction again, Copeland Realty is going to be at risk  
2 for the \$200,000 note regardless; right?

3 THE WITNESS: Correct.

4 Q BY MR. ZIPRICK: Right. The issue would be  
5 whether CP Three was also at risk?

6 A Yes.

7 Q Right. And -- but following up into Rollie's  
8 question, based on your testimony today and Rollie's  
9 point, almost like you thought the ultimate liability  
10 would rest with Copeland Realty for this 200,000 -- I'll  
11 call it the easement, potential contingent liability on  
12 the easement?

13 A Copeland Realty had a responsibility that would  
14 have put it in place to repay Copeland Properties Three  
15 if it's deemed Copeland Properties Three had this  
16 liability.

17 Copeland Realty, Inc., would have had a  
18 responsibility to cover that liability for Copeland  
19 Properties Three provided there was enough monies paid to  
20 Copeland Realty profiting from this transaction, which I  
21 believe there were, but I'm not 100 percent certain.

22 Q Or as the general partner as Mr. Peterson was  
23 just raising is another alternative --

24 A Yes.

25 Q -- which is not subject to any limitation on the

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

TRI TOOL INC., a Nevada	)	
corporation,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO.:
	)	34-2009-00054045
COPELAND PROPERTIES THREE,	)	
LP, a California limited	)	
partnership; CHARLES P.	)	
COPELAND, an individual; DONALD	)	
E. COPELAND, an individual,	)	
et al.,	)	
	)	
Defendants.	)	
	)	

DEPOSITION OF : CHARLES P. COPELAND, VOLUME III  
TAKEN BY : ROLLIE PETERSON, ESQUIRE  
Commencing : 9:25 A.M.  
Location : 707 Brookside Avenue  
                                Redlands, California 92373  
Day, Date : Tuesday, September 24, 2013  
Reported by : MICHELLE CASTELLANOS, C.S.R. NO. 11699  
Pursuant to : Notice  
Original to : THE WITNESS

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EXHIBITS

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139	Pledge of Security Interest dated December 16, 2009	431
140	Copeland Properties Twelve Account Quick Report	432
141	Print Screen Shot of Copeland Properties Twelve	432
142	CP18 Sales Proceeds Distributions	432
143	Copeland Properties Three Balance Sheet Detail as of May 29, 2007	492
144	8/22/08 Letter to Jim Dismukes from Murphy Austin	493
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I N D E X - Continued

PLAINTIFF'S EXHIBIT NO.	EXHIBITS DESCRIPTION	MARKED FOR IDENTIFICATION
149	Copeland Properties Three Account Quick Report	557
150	Copeland Properties Eighteen Account Quick Report	563

I N F O R M A T I O N R E Q U E S T E D

(None)

Q U E S T I O N S N O T A N S W E R E D

(None)

1 Q Got it. Because of the receiver and with the  
2 state, you couldn't do that?

3 A Correct.

4 Q Right. So you're prohibited from doing that,  
5 just them having full ownership of that?

6 A Correct.

7 Q Okay. Let me turn to the fourth page of that  
8 same exhibit. Well, you know, let me just ask you this.  
9 There has -- the claim has been made that -- that  
10 granting a security interest in a CP Eighteen interest  
11 violates the partnership agreement of CP Eighteen because  
12 it was to own and operate real estate North Carolina.

13 In your opinion again, your lay opinion, does  
14 the -- does a pledge of a security interest, a  
15 CP Eighteen interest, does that have anything to do with  
16 what the partnership itself is doing?

17 A No.

18 Q No. Because what the partnership does as an  
19 entity is totally different than the equity interest in  
20 the partnership, what an owner of those interests does?

21 A That's correct.

22 MR. ZIPRICK: Yes. Yes. Go ahead.

23 MR. PETERSON: Doesn't the CP Eighteen  
24 agreement, limited partnership agreement, authorize the  
25 general partner to borrow money?



1 THE WITNESS: It does.

2 MR. ZIPRICK: Right. Yeah.

3 Q BY MR. ZIPRICK: Recognizing that this is  
4 actually a loan to CP Twelve?

5 A Correct.

6 Q But secured by Copeland Wealth Management's  
7 ownership interest in CP Eighteen?

8 A Correct.

9 Q Yeah. Okay. Let me just turn very briefly to  
10 the Exhibit 140 and 141. And Exhibit 140, as you can  
11 see, this is from the QuickBooks accounting records for  
12 CP Twelve, and again, I'll just represent this is -- that  
13 we got, our firm, from the receiver, which like many  
14 other records came from you sometime before?

15 A Correct.

16 Q So that was the chain of custody, if I will, of  
17 this. And would you just take a look at what account is  
18 this we're looking at here?

19 A This is the note payable to Mel Ross, which  
20 follows this note that we were just talking about.

21 Q Yeah. Exactly. And you can see that the total  
22 figures there are what under this account?

23 A We borrowed 350,000 from Mel and Ruth, and we  
24 prepaid one year's interest on that of \$17,500 and  
25 deposited cash of 332,500 into the bank.

1 Q Yeah. Okay. Very good. So -- but the timing,  
2 the dollar figures, it all, as you said, it all ties in  
3 perfectly to this underlying note we've been looking at?

4 A Correct.

5 Q Which would that show to you, too, that that  
6 money actually came in and the note was booked on the  
7 records of CP Twelve?

8 A This does, yes. This shows the note coming in  
9 and in the split, it shows that the money went to First  
10 Centennial Bank. You could look then in the First  
11 Centennial Bank account and see the deposit on  
12 December 16th of 332,500.

13 Q You know, we did not stage this, but if you  
14 would go to Exhibit 141, I couldn't agree with you more.  
15 And this is just a print screen, and you can see, this is  
16 also from the QuickBooks, CP Twelve records.

17 A Okay.

18 Q And if you look at the top there, you can see  
19 that this is the First Centennial account, the 1100 right  
20 up there at the top. And then if you look down below,  
21 the same date, 12/16, if you would look at that entry for  
22 me.

23 A \$332,500 came in on that date and then the  
24 payment went to the bank to pay the loan on Copeland  
25 Properties Twelve right after that. And it shows the use

1 of those funds in part being for that payment.

2 (Whereupon Mr. Brubacher joined the proceedings.)

3 Q BY MR. ZIPRICK: Right. So would that tie that  
4 altogether that it shows the money coming into CP Twelve  
5 and being booked as a loan back to the Rosses?

6 A Yes.

7 Q Yes. Okay. Good. And then just to clarify,  
8 this was not a -- Copeland Wealth Management, Copeland  
9 Real Estate, it did not, in a sense, borrow the funds.  
10 It basically -- what it is, it gave it -- no, it pledged  
11 its CP Eighteen equity interest as security for this.

12 MR. ZIPRICK: Oh, yeah. Go ahead, Rollie.

13 MR. PETERSON: I asked the wrong question  
14 earlier when I asked you if the limited partnership  
15 agreement was CP Eighteen. I meant CP Twelve, limited  
16 partnership, would allow the general partner to borrow  
17 money from the partnership.

18 THE WITNESS: That's correct.

19 MR. ZIPRICK: Right.

20 THE WITNESS: As well as the CP Eighteen one.

21 MR. PETERSON: As well as the CP Eighteen. And  
22 then there isn't any restriction on Copeland Wealth  
23 Management, okay, pledging its interest at any  
24 partnership, is there?

25 THE WITNESS: No, there is no restriction on

1 that whatsoever. The actual transfer of that interest  
2 would have to be approved by the limited partners when  
3 the transfer of that interest was used to satisfy the  
4 debt. And a limited partner could instead buy it,  
5 provide the cash to pay Mel Ross off, so he wasn't  
6 guaranteed admittance to the partnership, but he was  
7 guaranteed an equity position in the partnership  
8 interest.

9 MR. PETERSON: So the partnership then -- I cut  
10 you off. So CP Eighteen, okay, has a provision within  
11 the document that restricts a limited partner from  
12 selling their interest?

13 THE WITNESS: Correct. Without first offering  
14 it to the other limited partner owners.

15 MR. PETERSON: So they have first right of  
16 refusal?

17 THE WITNESS: Correct.

18 Q BY MR. ZIPRICK: But I know there is a  
19 distinction between a new owner becoming a limited  
20 partner versus being entitled to whatever financial  
21 distributions come out. You're aware what I'm talking  
22 about?

23 A Yeah. Copeland Realty could use its  
24 distributions to pay Mel towards this note, could have  
25 used other assets to pay it off. It was just pledged as

1 a security interest and we agreed that if we sold that  
2 security or that investment in CP Eighteen, that Mel  
3 would get the proceeds from the sale of that which is  
4 documented in this --

5 Q So basically if there were proceeds coming out  
6 and the note hadn't been paid, those proceeds from  
7 CP Eighteen should go to the Rosses?

8 A Correct.

9 Q That's what you were agreeing to?

10 A In the liquidation of the -- right now  
11 CP Eighteen has sold its building.

12 Q Right.

13 A And CP Eighteen is in the process of making  
14 liquidating distributions to its partners. Those  
15 liquidation distributions, not earnings distributions but  
16 liquidation distributions, would indeed need to be paid  
17 to Mel to satisfy this debt per this agreement per my  
18 understanding.

19 Q Fair enough. Just one other quick clarifying  
20 point too to the extent, if you recall. And if  
21 CP Eighteen partnership agreement, because the Rosses  
22 were already limited partners in CP Eighteen as well?

23 A Yes.

24 Q So are you aware if there were any  
25 restriction -- I mean, I understand sometimes there's

1 greater restrictions when you're bringing in a new  
2 limited partner versus just increasing the interest of an  
3 existing limited partner.

4 A My understanding is it has to be increased  
5 pro rata so all of the limited partners would have a  
6 right to maintain their percentage of ownership on  
7 Copeland Realty's sale of its --

8 Q And, of course, if they did that, they would  
9 have to pay the money?

10 A Correct.

11 Q And potentially -- and then the security  
12 interest would still apply to that money?

13 A Right.

14 Q So either way there is going to be money to help  
15 pay off this promissory note to the Rosses?

16 A That's clearly what Mel thought here, that there  
17 would be money there.

18 Q Right.

19 A And that's the reason he asked for it, because  
20 CP Twelve did not have the guaranteed funds to be sure  
21 that it would come out of its problems.

22 Q And it was your intent to see those funds paid  
23 back too which is why you --

24 A Correct.

25 Q -- gave the collateral?

1 A Correct.

2 MR. ZIPRICK: We're just -- Marshall just come  
3 in. I just did a detour. We're just kind of talking  
4 about the Mel Ross, couple minutes, we wanted something  
5 we knew you wouldn't care as much on here.

6 Let me just -- in fact, let's us -- would you  
7 just pass those over. Rollie, would you give those on to  
8 Marshall so you can see the --

9 MR. BRUBACHER: Exhibits?

10 MR. ZIPRICK: Yeah.

11 MR. BRUBACHER: Thank you.

12 MR. ZIPRICK: And, Marshall, the one that says  
13 pledge of security interest, that's 139. Then the  
14 QuickBooks report, the Mel Ross note payable, that's 140.  
15 The one that's the screen print or print screen, which is  
16 the banking records for Centennial, that's 141. And then  
17 we're just about to come to 142.

18 Q BY MR. ZIPRICK: Okay. So I'll direct your  
19 attention to 142 and I'll represent this is the proposed  
20 distribution exhibit from the receiver -- actually what  
21 you were referring to. If you look at the top of it  
22 there, it says, "CP Eighteen Sale Proceeds  
23 Distributions." So this ties in exactly, Mr. Copeland,  
24 what you were talking about.

25 And this was proposed. This is actually in

1 front of the Federal Court right now. And I'd just like  
2 to direct your attention down -- well, you can see they  
3 show the cash on hand. They show disbursements for  
4 liabilities, costs, and then they have net proceeds for  
5 distribution, if you see the 2,257,000 figure down there.

6 Do you see that about halfway down?

7 A Yes, I do. I do.

8 Q And then you see equity. And then various --  
9 various individuals or entities listed with proposed  
10 distribution amounts; correct?

11 A Yes.

12 Q Okay. So if you would look down to, it's kind  
13 of near the bottom there where it says CMW Real Estate of  
14 6, point, small percent there.

15 Do you see that?

16 A I do.

17 Q Okay. And that 137,372.59.

18 A I do.

19 Q Okay. So this CWM, best as you know, Real  
20 Estate, that would be the same entity which gave the  
21 pledge of the security interest that we were looking at?

22 A Yes.

23 Q Okay. And this then, in turn, would be a  
24 proposed distribution of the 137,000 based upon the  
25 equity interest that CWM had had in CP Eighteen; correct?



1 A Correct.

2 Q So based upon that, would it be your opinion  
3 that these would be the exact type of proceeds you were  
4 referring to which then should go back to make payments  
5 on the Ross's note based upon the security interest that  
6 they held?

7 A Yes.

8 Q Okay. Great. Just was going to pick up a  
9 couple things on the \$200,000 note we were discussing  
10 yesterday, and then we'll move on and talk some more  
11 about the North Carolina property.

12 I'm going to -- I'll paraphrase what I recall of  
13 your testimony yesterday and see if this is a correct  
14 description and then let me know. What I recall you  
15 saying yesterday was that in your thinking back at the  
16 time, you felt on behalf of -- I'll call it the  
17 entities -- that the unrecorded easement under dispute  
18 here, that you would be able to get that successfully  
19 removed during that two-year time?

20 A Correct.

21 Q And that based upon that, you did not think that  
22 the likelihood was very strong that the \$200,000 note  
23 would ever have to be paid?

24 A At the time we issued the note?

25 Q Yes.

1 can recall?

2 A I don't recall that that was raised at that  
3 time.

4 Q Because clearly, and you can correct me on this,  
5 if the note was from Copeland Realty, then Copeland  
6 Realty would need to be the defendant in such litigation.

7 A Correct.

8 Q Do you recall, just for a few more questions on  
9 that, what information or knowledge the limited partners  
10 of CP Three had about -- I'm going to say this dispute  
11 over the unrecorded easement, and then the subsequent  
12 note and then the dispute -- you know, it's probably too  
13 compound.

14 Let me state at the time that the escrow was  
15 going on and there was the various documents back and  
16 forth in regards to the unrecorded easement as we were  
17 talking about yesterday, as far as you remember, were the  
18 limited partners involved in those discussions?

19 A No.

20 Q Would they have even known -- had any knowledge  
21 about that?

22 A No.

23 Q Okay. So you don't recall any type of memo or  
24 summary thing going out to the limited partners saying  
25 let us tell you about this unrecorded easement issue?

1           A       We looked at memos to the limited partners. The  
2 memos to the limited partners only talked about the  
3 distribution of their partnership funds.

4           Q       Okay. So the limited partners would have had no  
5 knowledge from you or from the -- I'll say the Copeland  
6 entities or Copeland Realty as far as saying there is  
7 this contingent liability out there for \$200,000?

8           A       No, they would have had no communication for  
9 that for -- because we did not believe that that belonged  
10 to them.

11          Q       Got it. And as you've testified previously,  
12 this note, being a contingent liability and for the other  
13 factors you went into, was not booked on the records of  
14 CP Three?

15          A       Correct.

16          Q       Right. So if a limited partner had asked to see  
17 the records at the time of the distributions from CP  
18 Three, there would have been nothing to alert them that  
19 there was such a contingent liability?

20          A       That's correct.

21          Q       Is it your opinion that any of the limited  
22 partners, when the distributions were made to them, that  
23 they had an intent to defraud Tri Tool?

24          A       No.

25          Q       Were they --

1 MR. PETERSON: That calls for speculation.

2 Q BY MR. ZIPRICK: And I'll base that upon any --  
3 well, since they didn't know about the promissory note,  
4 basing it on that, that they were not aware of the note  
5 or the contingent liability?

6 A They did not know about it. We did not think it  
7 was theirs so we did not communicate anything about it to  
8 anyone in any way, shape, or form. And it was our full  
9 intention to deal with Tri Tool in this matter completely  
10 in all aspects of it up until the time we could not  
11 satisfy that financially because of other events that  
12 took place against Copeland Realty.

13 Q Over that -- the subsequent years?

14 A Yes.

15 Q So based upon the fact that they didn't know  
16 about it, then it would have been difficult for them to  
17 have an intent to defraud Tri Tool?

18 A I would expect that's the case.

19 MR. PETERSON: That calls for speculation.  
20 Lacks foundation. Assumes facts.

21 Q BY MR. ZIPRICK: Was it -- let me ask you this.  
22 Was it your intent to defraud Tri Tool?

23 A No.

24 Q Was it your intent that the note -- if it should  
25 ever occur that the note became due, because the easement

1 MR. PETERSON: Lacks foundation.

2 MR. ZIPRICK: You know, let me rephrase that.

3 Q BY MR. ZIPRICK: Did you think, based upon your  
4 review of the facts and the history of the easement such  
5 as it was, that you felt that you could well be  
6 successful in litigation? I'm not asking for a legal  
7 opinion but just your opinion at the time.

8 A We felt the easement was inappropriate. We  
9 believed the judicial system was fair. And we believed  
10 that all of the information in front of an intelligent  
11 party with the right motivation to come up with the right  
12 answer would lead to a conclusion in our favor.

13 Not all of that is present in every little legal  
14 litigation so I don't know. It was certainly our  
15 responsibility to file that lawsuit to follow through in  
16 getting that easement removed, and we were committed to  
17 do that if we could have gotten the time to do that.

18 Q Were the limited partners of CP Three involved  
19 at all on that decision making?

20 A They did not know of it at that time.

21 Q They did not know of the ongoing dispute with  
22 Tri Tool?

23 A Not from our part.

24 Q Okay. When Tri Tool filed their lawsuit against  
25 CP Three, which you were referring to earlier with

1 was another 800,000 had to come in. It was already built  
2 in.

3 MR. PETERSON: It's already built in.

4 MR. ZIPRICK: Yeah. So that would not be an  
5 explanation, as I look at this statement, for that  
6 differential between capital accounted for and capital  
7 showing on the books.

8 MR. PETERSON: Yeah. We're showing capital on  
9 the books of 3.7 then and the capital accounted for would  
10 be 2.575. So I guess the issue is is there is a  
11 \$1.2 million spread between the two.

12 Q BY MR. PETERSON: Do you have any idea where  
13 that 1.2 is?

14 A Where -- there is no capital talked about on  
15 this escrow settlement. There is only cash and debt.

16 Q Right. But the point is that on this one, if  
17 you look at the bottom line, it says here's what we need  
18 from the borrower today, 1.7. We already got 850 from  
19 the borrower, 850,000.

20 A Correct.

21 Q Okay. To date to title the property into the  
22 borrower's name, we need an additional 1.725 at closing.

23 A Correct.

24 Q So those two numbers add up to 2.5 million.

25 A Correct.

1 Q Cash to close.

2 A Correct.

3 Q Okay. So either one of two things happened with  
4 the 730. The 730 is built into the left-hand side,  
5 summary of borrow's transactions coming off the second  
6 page of this, or it was handled outside of escrow. But  
7 it couldn't have been handled outside of escrow because  
8 it is provided for on line item 808, property reserve  
9 escrow to CW Capital LLC; right?

10 A You're interpreting the cash needed to close  
11 escrow and the capital needed to run the partnership are  
12 identical and they're not. Those are two different  
13 items. Cash and loans are part of what it takes to run a  
14 partnership.

15 Q I understand.

16 A There are other instances. In this particular  
17 case, the Copeland Wealth Management real estate amount  
18 invested \$700,000 was a purchase by the partnership from  
19 Copeland Realty for its rights to buy this building over  
20 and above what is in the escrow.

21 Q Okay. So basically what I'm hearing then is  
22 this, is that -- and correct me if I'm wrong obviously.  
23 But what I think I heard was CRI contracted to purchase  
24 the property.

25 A Correct.

1 Q In order for CRI -- in order for CP Eighteen to  
2 own the property or CP Fourteen, either one, okay, it had  
3 to buy it from CRI.

4 A It -- CRI was granted an ownership position in  
5 the partnership in exchange for its rights to this  
6 property.

7 Q Okay. And that you valued at what?

8 A \$700,000.

9 Q Okay. So that's about half of the money; okay?  
10 Between --

11 MR. ZIPRICK: Half, if I might, the  
12 differential?

13 MR. PETERSON: Yeah.

14 MR. ZIPRICK: Right.

15 MR. PETERSON: It's not even quite half. It's  
16 about -- well, it's about half, I guess.

17 Q BY MR. PETERSON: So the other 700,000 --

18 A Part of the other 700,000 was required to retire  
19 the \$330,000 debt.

20 Q Well, that came from -- that came from -- later  
21 from CP Three.

22 A For what reason?

23 Q Well, I'm not sure what reason, but I mean, it  
24 was lent to the partnership to retire so you didn't need  
25 that cash.



1 not have had that money available to distribute to the  
2 partners; correct?

3 A We would not have those dollars available.

4 Q At least at that time?

5 A At that time.

6 Q How would that have changed your approach in  
7 dealing with the limited partners and what they  
8 eventually got?

9 A Not at all.

10 Q Not at all. Was that -- would Franklin have  
11 gotten her money?

12 A Yes.

13 Q And where would that have come from?

14 A That would have come from, if you recall,  
15 CP Three owed Copeland Realty. Copeland Realty had more  
16 than this amount in CP Three. So CP Three got transfers  
17 or made transfers to Copeland Realty in payment of its  
18 debt over and above the 169,000 that we had to leave  
19 behind. We just would not have gotten that money. It  
20 would have gone to the limited partners.

21 Q Did CRI get a promotional interest in CP Three?

22 A I do not believe it did at all. I believe it  
23 got a commission at the end of escrow, a cash commission.

24 Q When you purchased?

25 A When it was purchased.

1 Q But not when it was sold?

2 A But not when it was sold.

3 Q Right. Okay. But you don't -- did CRI have an  
4 interest in -- an ownership interest in CP Three?

5 A At any time or at the close of the sale?

6 Q At any time.

7 A I don't know. The general ledger of Copeland  
8 Properties Three inception to close will have a capital  
9 account for Copeland Realty as a limited partner if it  
10 did.

11 Q When you -- how do you book a promotional  
12 interest? When you book your promotional interest, I  
13 mean, essentially it was a promotional interest that you  
14 got in CP Eighteen; right?

15 A Correct.

16 Q Okay. How did you book that?

17 A We increased the purchase price of the property  
18 by \$700,000 and we showed an equity position for Copeland  
19 Realty of \$700,000.

20 Q Okay. So -- and I saw a purchase contract out  
21 there at 8.1 so that's the distinction between the  
22 purchase contract of 8.1 and the closing of 8.8 sales  
23 price?

24 A Yeah, it was typical for us -- for us to take  
25 what the property was being sold for, and if we had

1 bought it just as a realtor for them without negotiating  
2 down the price, then we wouldn't take anything as a  
3 preferential interest.

4 But if we could negotiate with the seller in  
5 lieu of any kind of commissions on sale and operate to  
6 the benefit of the partnership and reduce the purchase  
7 price from the asking price, then we would take the  
8 difference between those two as a deferred interest in  
9 the -- not taking any cash but putting that into the  
10 partnership to further guarantee the partner's position  
11 and not take our position out until at the end or unless  
12 there was some other partner who wanted to buy in.

13 Q Now, the closing statement on CP Eighteen that  
14 you've been testifying from that was done March 2nd has  
15 an \$8.8 million purchase price, when in fact only 8.1 is  
16 going to the seller.

17 THE VIDEOGRAPHER: Two minutes left.

18 MR. PETERSON: Let's go off right now, and he  
19 can look at that. He can change the tape.

20 THE VIDEOGRAPHER: The videotaped deposition is  
21 now going off record at 12:47 p.m. This will also  
22 conclude Video No. 2 in today's deposition.

23 (Off the record.)

24 THE VIDEOGRAPHER: The videotaped deposition is  
25 now returning to record at 12:57 p.m. This will also

1 THE WITNESS: Will they pertain to these or can  
2 I clean my desk?

3 MR. ZIPRICK: Well, this is a different -- it's  
4 just kind of a quick issue. I'm not sure -- you won't  
5 need those for this.

6 Thank you. Is that right? Is it 150 now? Oh,  
7 that was 149.

8 Q BY MR. PETERSON: Did you say that Donald was  
9 working in your accounting office?

10 A Now?

11 Q Yeah.

12 A Yes.

13 Q Okay. Not as an accountant, is he?

14 A Yes.

15 Q Oh, okay. I didn't realize that he's both a  
16 broker and an accountant.

17 A He wasn't an accountant a year and a half ago,  
18 and nobody is going to call him an accountant in full  
19 today, but we're working in that direction.

20 (Plaintiff's Exhibit 150 was marked  
21 for identification by the court  
22 reporter and is attached hereto.)

23 MR. ZIPRICK: There you go. This is  
24 Exhibit 150, if you'd just pass those around the table.  
25 This will be a quick --

1 THE WITNESS: And to further answer your  
2 question, I should say that he's not working in my  
3 accounting firm. I'm working in his accounting firm.

4 Q BY MR. PETERSON: But you're his mentor.

5 A I'm his mentor. He's hired me to mentor him.

6 Q Okay.

7 MR. ZIPRICK: This is just for the record. This  
8 is again CP Eighteen from the QuickBooks records which  
9 again from the receiver. And I just have a couple quick  
10 questions for you.

11

12 FURTHER EXAMINATION

13 BY MR. ZIPRICK:

14 Q Under Account 2035, Mr. Copeland, if you go down  
15 to the last general journal entry on the page, which is  
16 for 31,630, and it says to reclassify interest on accrued  
17 management fees to notes payable.

18 I want to see if my interpretation of that entry  
19 is correct; that that appears to be interest on  
20 outstanding management fees to CR, or Copeland Realty,  
21 from CP Eighteen so that 31,000 of interest was charged  
22 on that. Does that look like a correct -- and then on  
23 the next page, I have the accrued management fees  
24 accounts.

25 A Yes.

1 Q Okay. And the basis for determining how much  
2 interest and what interest to be charged, can you shed  
3 any light on that for me? Would this be based on -- or  
4 maybe let me ask you this. It's more foundational.

5 I think we were talking about CP Three  
6 yesterday, but I'm not quite positive now, that normally  
7 the management fees would be determined, you would use  
8 the partnership agreement when it says that you would  
9 charge for services. Anyway, that'd probably be the same  
10 situation for CP Eighteen?

11 A Correct.

12 Q Okay. So -- because I don't recall any language  
13 in there talking about interest charges on that, but I  
14 just wanted to check if you could give what the basis for  
15 determining interest and all that on here would be.

16 A The management fees were due and payable but not  
17 paid. And as such, we were accruing interest on the  
18 management fees at some rate of interest. I don't know  
19 exactly but at some rate of interest.

20 Q Did you have -- did you have that situation come  
21 up with other partnerships too that might be behind, that  
22 you would charge them interest or was this kind of a  
23 unique --

24 A Correct. Yes.

25 Q Okay. Do you recall what your general interest

1 rate that you would use for --

2 A Internally we probably used 9 percent.

3 Q Nine percent. Okay. So you're thinking  
4 reasonable chance that this would have been a 9 percent  
5 interest rate charged on accrued management fees. That's  
6 what was being booked here?

7 A Correct.

8 Q Okay. And then it went into the notes payable  
9 for accrued management fees owing back to Copeland Real  
10 Estate from CP Eighteen?

11 A Can you say that again.

12 Q Yeah. So this -- then the account for 2035,  
13 when the interest was booked here, it wasn't paid but it  
14 was booked as part of a note payable to Copeland Real  
15 Estate from CP Eighteen?

16 A Looks like it went into accounts payable rather  
17 than note payable, but aside from that, I think your  
18 statement is correct.

19 Q A note payable account?

20 A Yes.

21 Q Okay. And just a couple other questions here  
22 too while I'm on it. If you use, just for an example, on  
23 say seven -- let's find one. 7/2 or 12 and it's  
24 No. 2206, and it says, "July distribution and management  
25 fee, Pacific Western Bank," then it has 2666 on it, which

1 would appear to be a payment made from CP Eighteen to  
2 Copeland Real Estate for 2666 so it was being deducted  
3 from the notes payable account.

4 Does that sound right?

5 A The balance the day before was 124,166.79. It  
6 looks to me like --

7 Q I think you're down one from me but that's fine.  
8 I think you're on August. And that's fine. I was just  
9 up on July.

10 A Okay. Looks like we were getting payment --  
11 several payments of 2666.67 instead of the normal  
12 management fee of 3791.67.

13 Q So it looks like a lot of those in there when it  
14 says, like, August distributions, September  
15 distributions, October distributions, those were all --  
16 those all appear to be payments, because I see Pacific  
17 Western Bank, and the amount of the note receivable or  
18 note payable to Copeland Real Estate was going down.

19 So a fair assumption that those were payments  
20 made and they were going against the note?

21 A Correct.

22 MR. ZIPRICK: Okay. We're good. That's it on  
23 that.

24 //

25 //



1 March 1, 2011, forward. Until we turned it over in  
2 October, I would assume that they would have accrued and  
3 we just didn't get around to making those journal entries  
4 in here.

5 MR. ZIPRICK: Yeah. In fact, I'll just -- I'll  
6 draw your attention back. I don't know if you have  
7 Exhibit 142 there. If not, I'll show you my copy here.

8 THE WITNESS: I do somewhere.

9 MR. ZIPRICK: Okay. Just a one sheet.

10 THE WITNESS: I should have it, but I'm not  
11 finding it.

12 MR. ZIPRICK: You know, I think you can take --  
13 you can take a look at this and I'm going to draw your  
14 attention right here to accrued management fees right  
15 there, that line. And this is, again, just to refresh  
16 your memory, this is the proposed distribution schedule  
17 for CP Eighteen from the receiver.

18 THE WITNESS: Okay.

19 MR. ZIPRICK: And if you look over at the dollar  
20 figure there, why don't you just read it for the record.

21 THE WITNESS: It's the same. It's 165,466.80.

22 MR. ZIPRICK: Exactly. So it matches perfectly  
23 what's on the QuickBooks as of -- as you said, accrued  
24 through 3/1/2011 what the receiver is proposing to pay  
25 into the receiver's estate for management fees.

1 THE WITNESS: That's what this sheet says and  
2 that's what that sheet says.

3 MR. ZIPRICK: Right. Right. Okay.

4 THE WITNESS: I do not agree with those numbers.

5 MR. ZIPRICK: I understand, but at least this  
6 is -- this is what is in front of the Court right now,  
7 and my point where I was driving at it is if the proposed  
8 distribution is less than their investment, and they have  
9 not received the 6 percent a year cumulative, then if you  
10 had -- the management fees would not be paid.

11 THE WITNESS: Yes.

12 MR. ZIPRICK: Okay. Thanks. Thank you.

13 Q BY MR. PETERSON: I missed Exhibit 149, and I  
14 guess that what my question with 149 is is if you look at  
15 the 191,410.62, that's the number that was used to close  
16 out and the forgiveness of debt; right?

17 A Yes.

18 Q And yet the 191,410 positive number is a note  
19 receivable from CP Nine. So CP Nine owed CP Three  
20 191,410.62 and the 191,410.62 was to offset that asset?

21 A Yes.

22 Q Okay. So what happened on CP Nine's books?

23 A I'd have to look at those.

24 Q What was CP Nine, by the way? What was the --

25 A Copeland Properties Nine is the Ohio property

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## EXHIBIT 2

LIMITED PARTNERSHIP AGREEMENT

Preamble

This AGREEMENT of Limited Partnership is made as of this \_\_\_\_ day of February, 2007, by and between Copeland Realty Inc., a California corporation, as the Managing General Partner, and the Limited Partner(s).

RECITALS

WHEREAS, a Certificate of Limited Partnership for Copeland Properties 18, L.P. (the "Partnership") was filed on February \_\_\_\_, 2007 with the Office of the Secretary of State of California;

WHEREAS, the Partnership desires to acquire certain Property (as hereinafter defined) and in connection therewith, the Partnership has applied to Wells Fargo Bank Minnesota, N.A., as trustee for Salomon Brothers Mortgage Securities VII, Inc. Commercial Mortgage Pass-Through Certificates, Series 2000-C3 (together with its predecessors-in-interest, and any successors or assigns, the "Lender") for an assumption of that certain loan in the amount of up to \$7,100,000.00 that was previously made to Wendover Greensboro, Ltd., a Texas limited partnership ("Seller") (the "Loan"), which Loan is evidenced by a promissory note made by Seller in favor of Lender (the "Note") and secured by, among other things, a first deed of trust made by Seller in favor of Lender (the "Security Instrument") on the Premises, together with all of the other loan documents evidencing or securing the Loan; and

WHEREAS, the Partners desire to provide for the terms and conditions governing the management and operation of the Partnership as set forth herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the sufficiency of which is acknowledged, the parties hereto agree as follows:

ARTICLE 1. THE PARTNERSHIP

Formation of Limited Partnership

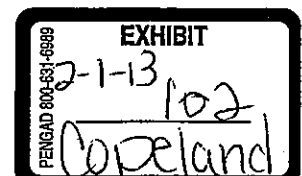
1.01. The General Partners and the Limited Partners agree to form a limited partnership pursuant to the provisions of the California Revised Limited Partnership Act.

Name of Partnership

1.02. The name of the Partnership is Copeland Properties 18, L.P., a Limited Partnership. The business of the Partnership shall be conducted under that name.

Purpose of Partnership

1.03. The sole purpose of the Partnership is to acquire, own, hold, maintain, and operate that certain parcel of real property, together with all improvements thereon, commonly known as 6103



Landmark Center Drive in Greensboro, North Carolina (the "Property"), together with such other activities as may be necessary or advisable in connection with the ownership of the Property. Notwithstanding anything contained herein to the contrary, the Partnership shall not engage in any business, and it shall have no purpose, other than the ownership, management and operation of the Property, and shall not acquire any real property or own assets other than those related to the Property and/or otherwise in furtherance of the purposes of the Partnership.

#### **Principal Place of Business or Executive Office**

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1.04. The principal place of business or executive office of the Partnership is at 25809 Business Center Drive, Suite F Redlands, CA 92374, San Bernardino County, State of California, or at any other place within San Bernardino County, California, as may be determined from time to time by the General Partner. If the General Partner changes the principal place of business or executive office of the Partnership, it must give written notice of the change of address to each Limited Partner at least ten (10) days before that change.

#### **Term of Partnership**

1.05. The term of the Partnership commences on the date on which the Partnership's Certificate of Limited Partnership is filed by the Secretary of State of California in the manner required by the California Revised Limited Partnership Act or a date not more than 90 days after date certificate is received by Secretary of State and continues 10 years after its first small business purchase.

#### **Certificate of Limited Partnership**

1.06. The General Partner will immediately execute a Certificate of Limited Partnership and cause that Certificate to be filed in the office of the Secretary of State of California. Thereafter, the General Partner will execute and cause to be filed certificates of amendment of the Certificate of Limited Partnership or Restated Certificates of Limited Partnership whenever required by the California Revised Limited Partnership Act or this Agreement. The General Partner will execute and cause to be filed original or amended certificates evidencing the formation and operation of the Partnership whenever required under the laws of any other states in which the Partnership determines to do business. The General Partner will also record a certified copy of the Certificate and any amendment in the office of the county recorder in every county in which the Partnership owns real property.

#### **Definitions**

1.07. Except as otherwise stated in this Agreement or as the context of this Agreement requires, the terms defined in this Section, for the purposes of this Agreement, have the meanings specified in this Section.

- (1) "Agreement" means this Limited Partnership Agreement, as amended from time to time.
- (2) "Assignee" means a person who has acquired a beneficial interest in the limited partnership interest of a Limited Partner but who is not a "substituted Limited Partner."

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(3) "Assigning Limited Partner" means a Limited Partner who has assigned a General Interest in that Partner's limited partnership interest but the Assignee of which has not become a "substituted limited partner."

(4) "Cash available for distribution" means total cash income from dividends and operations during any given accounting period plus the cash proceeds, if any, from the sale or other disposition, refinancing, or liquidation of Partnership property, less cash expenses as well as any allowances or reserves for contingencies and anticipated obligations the General Partner shall in its discretion deem necessary during the same accounting period.

(5) "Distribution" means any cash distributed to the Partners from cash available for distribution.

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(6) "Managing General Partner" or "General Partner" refers to Copeland Realty, Inc., or any successor permitted in accordance with the provisions hereof.

(7) "Limited Partner" refers to any person who is admitted to the Partnership, either as an original Limited Partner or as a substituted Limited Partner, and who executes this Agreement. A "new Limited Partner" is a Limited Partner other than an original or substituted Limited Partner who has purchased a limited partnership interest from the Partnership by making the required contribution to the Partnership.

(8) "Majority in interest of the Limited Partners" means 67% of the interests of the Limited Partners.

(9) "Net income" and "net loss" means the net income or net loss of the Partnership as determined for the purposes of computing federal income taxes pursuant to the Internal Revenue Code in accordance with generally accepted accounting principles.

(10) "Partners" or "the Partners" refers collectively to the General Partner and the Limited Partners. Reference to "Partner" is a reference to any one of the Partners.

(11) "Partnership" refers to the Limited Partnership created under this Agreement and the Certificate of Limited Partnership filed with the Office of the Secretary of State pursuant to the California Revised Limited Partnership Act.

(12) "Vote" includes written consent.

(13) "Cumulative non compounded annualized profit" (CNCAP) is the total profit/loss from all sources, including ordinary income, investment return on cash reserves and capital gain, from the inception of the partnership through the present date. It will include both realized and non-realized gains, based on the fair market value of all partnership assets net of disposition costs.

(14) The percent of CNCAP above is computed using "original cash/property net equity" (OCPNE) of all partners as the denominator, CNCAP as the numerator and then the remainder divided by time elapsed from close of first purchase escrow.

CNCAP Gross CNCAP percent  
OCPNE #:7193

Then

$\frac{GCNCP\%}{\text{Years of time Elapsed}} = \text{Percent of CNCAP}$

**ARTICLE 2. MEMBERS OF PARTNERSHIP**

---

**Original General Partner**

2.01. The name of the original General Partner is as follows: Copeland Realty, Inc

**Original Limited Partners**

2.02. The name of the original Limited Partner is as follows:

Copeland Properties 14, L.P., a California limited partnership.

**Admission of Additional General Partner**

2.03. Subject to any other provision of this Agreement, a person or entity may be admitted as a General Partner after the Certificate of Limited Partnership is filed only with the written consent of General Partner.

**Replacement of Sole Remaining General Partner**

2.04. If a General Partner ceases to be a General Partner and there is no remaining General Partner, one or more new General Partner may be admitted to the Partnership on the written consent of 67% of the Limited Partners; provided that the Limited Partners agree in writing to continue the business of the Partnership pursuant to Paragraph 12.03 of this Agreement.

**Admission of Additional Limited Partners**

2.05. Subject to the provisions of Article 9 of this Agreement, governing transfers of partnership interests, a person may acquire an interest in the Partnership directly from the Partnership and be admitted as an additional Limited Partner on approval of the Managing General Partner.

**Admission of Substituted Limited Partner**

2.06. The assignee of a limited partnership interest may be admitted as a substituted Limited



## Amendment of Partnership Records

2.07. On admission of a General Partner or Limited Partner, the General Partner will add the name, address, contribution, and that Partner's share in Partnership profits or losses to the list of Partners kept in the principal executive office of the Partnership.

## Additional Partners. Bound by Agreement

~~2.08. Before any person is admitted to the Partnership as a General or Limited Partner, that person shall agree in writing to be bound by all of the provisions of this Agreement.~~

## ARTICLE 3. FINANCING

### Capitalization

3.01. The Partnership shall have an initial capitalization of \$2,475,000.00 which shall be contributed by the General Partner and the Limited Partner(s), as further described in Paragraph 3.03 of this Agreement.

### General Partner Capital Contribution

3.02. (a) The General Partner named in this Agreement shall contribute \$25,000.00 to the capital of the Partnership, and shall be issued a one percent (1%) ownership interest in the Partnership.

(b) Each new or replacement General Partner admitted after the execution of this Agreement shall contribute, before admission to the Partnership, a sum that shall be determined by the Managing General Partner. In the alternative, or in addition to the contribution provided for in this Agreement, the remaining General Partner may require a General Partner who is being admitted to replace a former General Partner to purchase the interest of the former General Partner pursuant to Paragraphs 9.04, 9.05, and 9.06 of this Agreement. These provisions are subject, however, to any requirements for approval by the Limited Partners specified elsewhere in this Agreement. If there are no remaining General Partners, the contribution and interest of a new or replacement General Partner shall be determined by the Limited Partners in accordance with Paragraph 2.04 of this Agreement.

### Limited Partner Capital Contribution

3.03. The original Limited Partner shall contribute to the capital of the Partnership cash in the amount of \$2,450,000.00, and shall be issued a ninety-nine percent (99%) ownership interest in the Partnership.

### Initial Capital Contributions From New Limited Partners



16%	1.0%	15.0%
21%	3.0%	18.0%
25%	5.0%	20.0%
35%	10.0%	25.0%

# 7195

**Distribution of Cash Available for Distribution**

4.02. Annually cash available for distribution, as determined by the Managing General Partner, will be distributed to the Partners as follows:

- (1) First the Limited Partners shall receive annual cash distribution not to exceed 6% of the initial capital contribution made by the Limited Partner. ~~(See Exhibit A attached hereto).~~
- (2) Next the General Partner shall receive payment for services not to exceed .5% of the initial Limited Partners capital contribution.
- (3) All remaining cash available for distribution shall be distributed to the Limited Partners.

4.03. No General Partner or Limited Partner has the right to receive property other than money on the distribution of profits. No Partner may be compelled to accept the distribution of any asset in kind from the Partnership in lieu of any distribution of money due that Partner.

**Priorities Among Limited Partners**

4.04. No Limited Partner shall be entitled to any priority or preference over any other Limited Partner as to the distribution of cash available for distribution.

**ARTICLE 5. MANAGEMENT OF PARTNERSHIP AFFAIRS**

**Control and Management**

5.01. The Managing General Partner has the sole and exclusive control of the Partnership. Subject to any limitations expressly set forth in this Agreement, the Managing General Partner has the power and authority to take any action from time to time as it may deem to be necessary, appropriate, or convenient in connection with the management and conduct of the business and affairs of the Partnership, including without limitation, the power to do the following (without any separate consent of the Limited Partners being required):

- (1) Acquire property, including real or personal property, for the use of the Partnership on the terms and conditions as the Managing General Partner may, from time to time, determine to be advantageous to the Partnership;
- (2) Dispose of Partnership property, either in the ordinary course of the business of the Partnership



(3) Finance the Partnership's activities by borrowing money from third parties on the terms and under the conditions as the Managing General Partner deems appropriate. When money is borrowed for Partnership purposes, the Managing General Partner is authorized to pledge, mortgage, encumber, or grant a security interest in Partnership properties as security for the repayment of those loans;

(4) Employ, retain, or otherwise secure the services of any personnel or firms deemed necessary by the Managing General Partner for or to facilitate the conduct of Partnership business affairs, all on the terms and for the consideration as the Managing General Partner deems advisable; and

(5) Take any and all other action permitted by law that is customary in or reasonably related to the conduct of the Partnership business or affairs.

### **Restrictions on Limited Partners**

5.02. The Limited Partners do not have either the obligation or the right to take part, directly or indirectly, in the active management or control of the business of the Partnership, except as otherwise permitted in this Agreement and except for the following:

- (1) Acting as a contractor for or an agent or employee of the Partnership or a General Partner, or an officer, director, or shareholder of a corporate General Partner.
- (2) Consulting with and advising a General Partner with regard to the business of the Partnership.
- (3) Acting as surety for the Partnership or guaranteeing one or more specific debts of the Partnership.
- (4) Approving or disapproving an amendment to this Agreement.

### **Standard of Care of General Partner**

5.03. The Managing General Partner must exercise ordinary business judgment in managing the affairs of the Partnership. Unless fraud, deceit, or willful misconduct is involved, the Managing General Partner is not liable or obligated to the Limited Partners for any mistake of fact or judgment made by the Managing General Partner in operating the business of the Partnership that results in any loss to the Partnership or its Partners. The Managing General Partner does not, in any way, guarantee the return of the Limited Partners' capital or a profit from the operations of the Partnership. The Managing General Partner is not responsible to any Limited Partner because of a loss of that Partner's investment or a loss in operations, unless the loss has been occasioned by fraud, deceit, or a wrongful taking by the Managing General Partner.

### **Authority for Use of Nominees**

5.04. All Partners recognize that practical difficulties exist in doing business as a Limited Partnership, occasioned by third parties seeking to determine the capacity of the General Partner to act for and on behalf of the Partnership, or for other reasons. Therefore, the Limited Partners specifically authorize the Managing General Partner to acquire all real and personal property, arrange all financing, enter contracts, and complete all other arrangements needed to effectuate the purpose of this Partnership, either in its own names or in the name of a nominee, without having to disclose the existence of this Partnership. If the Managing General Partner decides to transact the Partnership business in his own name or in the name of a nominee, he shall place a written declaration of trust in the Partnership books and records that acknowledges the capacity in which the nominee acts and the name of the Partnership as the true or equitable owner.

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### **Removal of General Partner**

5.05. For so long as the Loan is outstanding, Copeland Realty, Inc. shall not be removed or replaced without the prior written consent of Lender, in its sole discretion. Upon repayment in full of the Loan and release of the lien of the Security Instrument, a General Partner may be removed by the affirmative vote of 67% in interest, not in number, of the Limited Partners who are not also General Partners. Written notice of a General Partner's removal must be served on that Partner by certified mail. The notice must set forth the day on which the removal is to be effective, and that date shall not be less than 30 days after the service of notice on the General Partner. If there is no other remaining General Partner, and the Limited Partners fail to elect a new General Partner pursuant to Paragraph 2.04 of this Agreement within 30 days after the removal becomes effective, the Partnership will be dissolved and its business wound up and terminated. If the removal of a General Partner does not cause the dissolution of the Partnership, the General Partner's interest may be purchased pursuant to Paragraphs 9.04 or 9.05 of this Agreement. Otherwise, that removal will cause that Partner's interest in the Partnership to be converted to that of a Limited Partner. A former General Partner whose interest has been converted to that of a Limited Partner has the same rights and obligations under this Agreement as any other Limited Partner.

## **ARTICLE 6. BOOKS, RECORDS, AND ACCOUNTS**

### **Partnership Accounting Practices**

6.01. (a) The Partnership books shall be kept on a cash basis. The Partnership books shall be closed and balanced at the end of each fiscal year of the Partnership. The Managing General Partner may employ accounting and tax professionals.

(b) The fiscal year of the Partnership will be determined by the General Partner.

### **Maintenance of Records and Accounts**

6.02. At all times, the Managing General Partner must maintain or cause to be maintained true and proper books, records, reports, and accounts in which shall be entered fully and accurately all transactions of the Partnership.

### **Required Records**

6.03. The Managing General Partner must maintain at the principal executive office of the

- (1) A current list of the full name and last known business or residence address of each Partner, set forth in alphabetical order, together with the contribution and the share in profits and losses of each Partner.
- (2) A copy of the certificate of limited partnership and all certificates of amendment (or the restated certificate of limited partnership), together with executed copies of any powers of attorney pursuant to which any certificate has been executed.
- ~~(3) Copies of the Partnership's federal, state, and local income tax or information returns and reports, if any, for the six most recent taxable years.~~
- (4) Copies of this Agreement and all amendments to this Agreement.
- (5) Financial statements of the Partnership for the six most recent fiscal years.
- (6) The Partnership's books and records for at least the current and past three fiscal years.

#### **Delivery of Records to Limited Partners**

6.04. On the request of any Partner, or his or her agent or attorney, the Managing General Partner will promptly deliver to that Partner, or to his or her agent or attorney, at the expense of the Partnership, a copy of any of the following:

- (1) The current list of each Partner's name, address, contribution, and share in profits and losses.
- (2) The certificate of limited partnership, as amended, and any powers of attorney pursuant to which any certificate was executed.
- (3) This Agreement, as amended.

#### **Access to Records by Limited Partners**

6.05. Each Partner and/or each Partner's duly authorized representative, attorney, or attorney-in-fact has the right, on reasonable request, to:

- (1) Inspect and copy, during normal business hours, any Partnership records the Partnership is required to maintain, pursuant to Paragraph 6.02 of this Agreement.
- (2) Obtain from the Managing General Partner, promptly after becoming available, a copy of the Partnership's federal, state, and local income tax or information returns for each year.

#### **Financial Statements**

6.06. The Managing General Partner will furnish financial statements and reports as follows:

(1) The Managing General Partner will issue an annual report containing a balance sheet as of the end of each fiscal year and an income statement and statement of changes in financial position for each fiscal year. The Managing General Partner will send a copy of that annual report to each Partner not later than 120 days after the close of each fiscal year.

(2) The Managing General Partner will deliver or mail the following to the Limited Partners, within 30 days after receipt of the written request of Limited Partners representing at least 5 percent of the interests of all Limited Partners:

(a) An income statement of the Partnership for the initial three-month, six-month, or nine-month period of the current fiscal year that ends more than 30 days before the date of the request.

(b) A balance sheet of the Partnership as of the end of the initial three-month, six-month, or nine month period of the current fiscal year that ends more than 30 days before the date of the request.

(3) The Managing General Partner will accompany any of these financial statements with either the report of an accountant engaged by the Partnership, or, if there is no report of an accountant, the certificate of a General Partner that the financial statements were prepared without audit from the books and records of the Partnership.

### **Amendments to Agreement**

6.07. The Managing General Partner will promptly furnish any Limited Partner who executed a power of attorney authorizing a General Partner to execute an amendment to this Agreement with a copy of any amendment to this Agreement executed by a General Partner pursuant to that power of attorney. As used in this Paragraph, the term "promptly" means within 10 business days after the execution of the amendment.

### **Income Tax Data**

6.08. The Managing General Partner will send to each Partner, within 60 days after the end of each taxable year, such information as is necessary for them to complete their federal and state income tax or information returns.

### **Partnership Tax or Information Returns**

6.09. The Managing General Partner will send to each Partner a copy of the Partnership's federal, state, and local income tax or information returns for each taxable year within 60 days after the end of each taxable year.

### **Capital Accounts**

6.10. An individual capital account must be maintained for each General Partner and Limited Partner. A capital account consists of a Partner's contribution to the initial capital of the Partnership, any additional contributions to the Partnership capital made by the Partner pursuant to this Agreement, and any amounts transferred to the capital account from that Partner's income account pursuant to this Agreement.

### **Income Accounts**

6.11. An individual income account will be maintained for each Partner. At the close of each accounting period, each Partner's share of the net profits or net losses of the Partnership will be credited or debited to, and that Partner's distributions received during each fiscal year will be deducted from, that ~~Partner's income account and any resulting balance or deficit shall be transferred to or charged against that~~ Partner's capital account.

### **Banking**

6.12. The Managing General Partner will open and maintain a separate bank account in the name of the Partnership in which there shall be deposited all of the funds of the Partnership. No other funds may be deposited in the account. The funds in that account must be used solely for the business of the Partnership, and all withdrawals from that account are to be made only on checks signed by the Managing General Partner.

## **ARTICLE 7. RIGHTS, POWERS, DUTIES, AND RESTRICTIONS OF PARTNERS**

### **Managing General Partner Exclusive Right to Manage**

7.01. The Managing General Partner has full and exclusive charge and control of the management, conduct, and operation of the Partnership in all matters and respects.

### **Devotion of Time by Managing General Partner**

7.02. The Managing General Partner must devote his entire care, attention, and business capacity to the affairs of the Partnership or such care, attention, and business capacity to the affairs of the Partnership as may be reasonably necessary. In this connection, the Partners acknowledge that any Managing General Partner may be the Manager or General Partner of other partnerships and may continue to manage other partnerships, and may continue to engage in other related businesses whether or not competitive with the business of the Partnership.

### **Voting Rights of Managing General Partner**

7.03. The Managing General Partner has rights in the management and conduct of the Partnership business.

### **Restrictions on Managing General Partner**

7.04. Except as otherwise expressly provided in this Agreement, each Managing General Partner is subject to all the restrictions imposed on general partner by the California Revised Limited Partnership Act and the California Uniform Partnership Act and has all the rights and powers granted to general partner under those statutes.

### Salaries of Managing General Partner

7.05. The Managing General Partner shall be paid a flat fee annually as outlined in paragraph 4.02.2.

### Voting Rights of Limited Partners

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7.06. (a) In addition to any other voting rights granted the Limited Partners under this Agreement, the Limited Partners have the right to vote on the following matters:

(1) The dissolution and winding up of the Partnership, pursuant to Paragraph 12.02;

(2) The merger of the Partnership or the sale, exchange, lease, mortgage, pledge, or other transfer of, or granting a security interest in, all or a substantial part of the assets of the Partnership other than in the ordinary course of its business;

(3) The incurrence of indebtedness by the Partnership other than in the ordinary course of its business;

(4) A change in the nature of the Partnership's business;

(5) Transactions in which the General Partner has an actual or potential conflict of interest either with the Limited Partners or the Partnership;

(6) The removal of a General Partner;

(7) An election to continue the business of the Partnership when all General Partners have left the Partnership.

(b) All of the actions specified in Subparagraph (a) of this Agreement may be taken following the vote of 67% of the Limited Partners.

(c) The Limited Partners have the right to vote on the admission of an additional Managing General Partner. Except as specifically provided in Paragraphs (d) and (e) of this Paragraph 7.06 or any other provision of this Agreement, the admission of an additional Managing General Partner may be accomplished on the affirmative vote of 67% in interest of the Limited Partners or provide for vote by greater than majority in interest of limited partners.

(d) The Limited Partners have the right to vote on an election to continue the business of the Partnership and the admission of one or more General Partner after a General Partner ceases to be a General Partner under Corporations Code 15642(b), (c), or (d) and there is no remaining General Partner.

(e) The Limited Partners have the right to vote on any other matters related to the business of the Partnership that are made subject to the approval or disapproval of the Limited Partners by this Agreement.

### Loans to the Partnership

7.07. Nothing in this Agreement prevents a Partner from lending money to the Partnership on a promissory note or similar evidence of indebtedness for a reasonable rate of interest. Any Partner lending money to the Partnership has the same rights and risks regarding the loan as would any person or entity making the loan who was not a member of the Partnership.

### Transaction of Business With Partnership

7.08. Except as otherwise provided in this Agreement, a Partner may not transact other business with the Partnership.

### Partners Engaging in Other Business

7.09. Except as otherwise provided in Paragraph 7.02 of this Agreement, any of the Partners may engage in or possess an interest in other business ventures of every nature and description independently or with others. Neither the Partnership nor the Partners have any right by virtue of this Agreement in and to any such independent ventures or to the income or profits derived from them.

## ARTICLE 8. PARTNERSHIP MEETINGS

### Call and Place of Meetings

8.01. (a) Meetings of the Partners will be held at the Principal Executive Office of the Partnership or at any place selected by the person or persons calling the meeting or specify place of meeting within or without California at the call and pursuant to the written request of the General Partner, or of Limited Partners representing more than 67 percent of the interests of Limited Partners, for consideration of any of the matters as to which Limited Partners are entitled to vote pursuant to Paragraph 7.06 of this Agreement.

(b) In addition, the Partners may participate in a meeting through the use of conference telephones or similar communications equipment providing that all Partners participating in the meeting can hear one another. Participation in this type of telephone meeting constitutes presence in person at the meeting.

### Notice of Meeting

8.02. Immediately on receipt of a written request stating that the Partner or Partners request a meeting on a specific date which date shall not be less than 10 nor more than 60 days after the receipt of



the request by the Managing General Partner, the Managing General Partner must give notice to all Partners entitled to vote, as determined in accordance with Paragraph 13.01 of this Agreement. Valid notice may not be given less than 10 nor more than 60 days before the date of the meeting; the notice must state the place, date, and hour of the meeting and the general nature of the business to be transacted. No business other than the business stated in the notice of the meeting may be transacted at the meeting. Notice must be given by mail addressed to each Partner entitled to vote at the meeting at the address for the Partner appearing on the books of the Partnership.

### Quorum

8.03. At any duly held or called meeting of Partners, a majority in interest or other percentage of the Limited Partners represented in person or by proxy or in person constitutes a quorum. The Partners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Partners to leave less than a quorum, if any action taken, other than adjournment, is approved by the requisite percentage of interests of Limited Partners.

### Adjournment of Meetings

8.04. A Partnership meeting at which a quorum is present may be adjourned to another time or place and any business that might have been transacted at the original meeting may be transacted at the adjourned meeting. If a quorum is not present at an original meeting, that meeting may be adjourned by the vote of a majority of the interests represented either in person or by proxy. Notice of the adjourned meeting need not be given to Partners entitled to notice if the time and place of the adjourned meeting are announced at the meeting at which the adjournment is taken, unless (1) the adjournment is for more than 45 days or (2) after the adjournment, a new record date is fixed for the adjourned meeting, in which case notice of the adjourned meeting shall be given to each Partner of record entitled to vote at the adjourned meeting.

### Meetings Not Duly Called, Noticed, or Held

8.05. The transactions of any meeting of Partners, however called and noticed, and wherever held, shall be as valid as though consummated at a meeting duly held after regular call and notice, if a quorum is present at that meeting, either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs either a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting.

### Waiver of Notice

8.06. Attendance of a Partner at a meeting constitutes waiver of notice, except when that Partner objects, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be described in the notice of the meeting and not so included, if the objection is expressly made at the meeting. Any partner approval at a meeting (other than unanimous approval by Limited Partners of an election to continue the business of the Partnership after the retirement, death, or adjudication of incompetence of a General Partner) is valid only if the general nature of the

### Consent to Action Without Meeting

8.07. Any action that may be taken at any meeting of the Partners may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by Partners having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all Partners entitled to vote on the matter were present and voted. If the Limited Partners are requested to consent to a matter without a meeting, each Partner shall be given notice of the matter to be voted on in the manner described in Paragraph 8.02. If any General Partner, or Limited Partners representing more than 10 percent of the interests of the Limited Partners, requests a meeting for the purpose of discussing or voting on the matter so noticed, notice of a meeting will be given pursuant to Paragraph 8.02 and no action may be taken until the meeting is held. Unless delayed by a request for and the conduct of a meeting, any action taken without a meeting is effective 15 days after the required minimum number of voters have signed consents to action without a meeting; however, the action is effective immediately if all General Partners and Limited Partners representing at least 90 percent of the interests of the Limited Partners sign consents to the action without a meeting.

### Proxies

8.08. (a) Every Partner entitled to vote may authorize another person or persons to act by proxy with regard to that Partner's interest in the Partnership.

(b) Any proxy purporting to have been executed in accordance with this Paragraph is presumptively valid.

(c) No Proxy is valid after the expiration of 11 months from the date of the proxy unless otherwise provided in the proxy. Subject to Subparagraphs (f) and (g) of this Paragraph, every proxy continues in full force and effect until revoked by the person executing it. The dates contained on the proxy forms presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(d) A proxy is not revoked by the death or incapacity of the person executing it, unless (except as provided in Subparagraph (f) of this Paragraph), before the vote is counted, written notice of the death or incapacity of the maker is received by the Partnership.

(e) Revocation of a proxy is effected by a writing delivered to the Partnership stating that the proxy is revoked or by a subsequent proxy executed by the Partner who executed the original proxy or, as to any meeting, by the attendance and exercise of the right to vote at that meeting by the Partner who executed the proxy.

(f) A proxy that states that it is irrevocable is irrevocable for the period specified in the proxy when it is held by any creditor or creditors of the Partnership or the Partner who extended or continued credit to the Partnership or the Partner in consideration of the proxy if the proxy states that it was given in consideration of that credit and also states the name of the person extending or continuing credit. In addition, a proxy may be made irrevocable (notwithstanding Subparagraph (d) of this Paragraph)

(g) Notwithstanding the period of irrevocability specified in the proxy as provided in Subparagraph (f) of this Paragraph, the proxy becomes revocable when the debt of the Partnership or Partner is paid.

(h) A proxy may be revoked, notwithstanding a provision making it irrevocable, by the assignment of the interest in the Partnership of the Partner who executed the proxy to an assignee without knowledge of the existence of the proxy and the admission of that assignee to the Partnership as a Partner.

~~(i) The Managing General Partner may, in advance of any Partnership meeting, prescribe additional regulations concerning the manner of execution and filing of proxies and their validation.~~

## ARTICLE 9. TRANSFER OF PARTNERSHIP INTERESTS

### Conditions for Transfer

9.01. A Limited Partner may sell, assign, transfer, encumber, or otherwise dispose of an interest in the Partnership subject to the provisions of this Article 9.

### Permitted Transfers

9.02. (a) If a Limited Partner receives a bona fide offer for the purchase of all or a part of that Limited Partner's interest in the Partnership, that Limited Partner must either refuse that offer or give the Managing General Partner, who will immediately notify all other limited partners by written notice setting out full details of that offer. The notice must specify, among other things, the name of the offer or, the percentage of interest in the Partnership covered by the offer, the terms of payment, whether for cash or credit and, if on credit, the time and interest rate, as well as all other consideration being received or paid in connection with the proposed transaction, and all other terms, conditions, and details of the offer.

(b) On receipt of the notice with regard to that offer, the Managing General Partner shall have the exclusive right and option, exercisable at any time during a period of 30 days from the date of the notice, to purchase the interest in the Partnership covered by the offer in question at the same price and on the same terms and conditions of the offer as set out in the notice. If the Managing General Partner decides to exercise the option, they must give written notice to that effect to the Limited Partner desiring to sell, and the sale and purchase must be consummated within 30 days. If the Managing General Partner does not elect to exercise its option or waive their rights in writing, the selling Limited Partner must be so notified in writing and, subject to any prohibitions or restrictions on transfer imposed by the Managing General Partner for purposes of compliance with applicable securities law, is free to sell the interest in the Partnership covered by the offer, if the sale is consummated within 90 days, or the interest once again becomes subject to the restrictions of this Article. The sale, if permitted, must be made strictly on the terms and conditions and to the person described in the required notice.

(c) If the Managing General Partner fails to purchase all of the portion of the selling Limited Partner's interest in the Partnership specified in the notice to them provided in this Paragraph, the

remaining Limited Partners shall have an additional 30 days to serve on the Managing General Partner notice in writing of that Partner's intention to purchase on the terms and conditions set forth in the selling Partner's notice that portion of the selling Partner's interest as the offering Partner's interest in the profits or capital of the Partnership bears to the total interest of all profits or capital of the Partnership. Provided, however, if any Limited Partner fails to purchase a proportionate share of the interest offered by the selling Partner, notice of that fact shall be given to each Limited Partner by the Managing General Partner, and the interest may be purchased by any one or more of the other Limited Partners.

(d) Any assignment made to anyone, not already a Partner, is effective only to give the assignee the right to receive distributions, and allocations of income, gain, loss, deduction, credit, or similar items to which the assignor would otherwise be entitled, does not relieve the assignor from liability under any agreement to make additional contributions to capital; does not relieve the assignor from liability under the provisions of this Agreement; and does not give the assignee the right to become a substituted Limited Partner. Neither the Managing General Partner nor the Partnership are required to determine the tax consequences to a Limited Partner or his or her assignee, arising from the assignment of a Limited Partnership interest. The Partnership will continue with the same basis and capital account for the assignee as was attributable to the former owner who assigned the Limited Partnership interest. The Partnership interest of the Managing General Partner cannot be voluntarily assigned or transferred except pursuant to Paragraph 9.04 or when the transfer occurs by operation of law.

**Death, Bankruptcy, or Incompetence of Limited Partner**

9.03. If any Limited Partner dies or is adjudged incompetent or bankrupt by any court of competent jurisdiction, the remaining General and Limited Partners have an option to purchase the Partnership interest of that Limited Partner by paying to the person legally entitled to that interest, within 90 days after the date of death or the adjudication of incompetency or bankruptcy, the fair market value of that Partnership interest. This 60-day period may be extended to 30 days after a MAI appraisal is received provided the appraiser is contracted for within 30 days. Each remaining General and Limited Partner has the right to purchase that proportionate part of the deceased, incompetent, or bankrupt Limited Partner's interest in the Partnership as the remaining Partner's interest in the profits of the Partnership bears to the total interest of all profits the Partnership. Provided, however, if any remaining General or Limited Partner fails to purchase a proportionate share of the interest offered by the selling Partner, notice of that fact must be given to each General and Limited Partner, and it may be purchased by any one or more of the remaining General or Limited Partners.

**Sale to New General Partner**

9.04. When any General Partner ceases to be a General Partner, pursuant to Corporations Code Section 15642, the interest of the withdrawing General Partner may be purchased by a new General Partner during the option period set forth in Paragraph 9.04, on admission of the new Partner to the Partnership and on payment of the value of that interest determined as provided in Paragraph 9.06.

**Duties of Remaining Purchasing General Partner**

9.05. On the purchase and sale of a Withdrawing General Partner's interest, the new General Partner will assume all obligations of the Partnership and shall hold the withdrawing General Partner, the

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personal representative and estate of the withdrawing General Partner, and the property of the withdrawing General Partner free and harmless from all liability for those obligations. Further, the remaining General Partners, at their own expense, must immediately amend the Certificate of Limited Partnership as required by the California Revised Limited Partnership Act, and cause to be prepared, executed, acknowledged, filed, served, and published all other notices required by law to protect the withdrawing General Partner or the personal representative and estate of the withdrawing General Partner from all liability for the future obligations of the Partnership business.

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#### **Sale of Partnership by Managing General Partner**

9.06. At any time during the term of the Partnership, the Managing General Partner may sell the holdings of the partnership without further approval of the limited partners if such sale will result in a 20 percent non-compounded annual return to the Limited Partners. Any sale not meeting this amount must be approved by at least 50% of the Limited Partners.

#### **Distribution Upon Sale**

9.07. Net proceeds from the sale shall be distributed (a) first to the Limited Partners as specified in Paragraph 4.01 attached hereto (b) the balance of the distributions will be distributed 50% to the Limited Partners and 50% to the General Partner as more fully specified in Paragraph 4.01.

### **ARTICLE 10. LIABILITIES OF PARTNERS**

#### **Liability of Managing General Partner**

10.01. Except as otherwise provided in this Agreement, the liability of the Managing General Partner arising from the conduct of the business affairs or operations of the Partnership or for the debts of the Partnership is unrestricted.

#### **Liability of Limited Partners**

10.02. The liability of the Limited Partners is restricted and limited to the amount of the actual capital contributions that each Limited Partner makes or agrees to make to the Partnership.

### **ARTICLE 11. PROHIBITED TRANSACTIONS**

#### **Specified Acts**

11.01. During the time of the organization or continuance of this Partnership, neither the General nor Limited Partners may take, and the Partners specifically promise not to do, any of the following actions:

- (1) Use the name of the Partnership (or any substantially similar name) or any trademark or trade name adopted by the Partnership, except in the ordinary course of the Partnership business.
- (2) Disclose to any non-partner any of the Partnership business practices, trade secrets, or any

- (3) Do any other act or deed with the intention of harming the business operations of the Partnership.
- (4) Do any act contrary to this Agreement, except with the prior express written approval of all Partners.
- (5) Do any act that would make it impossible to carry on the intended or ordinary business of the Partnership.

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(6) Confess a judgment against the Partnership.

(7) Abandon or transfer or dispose of Partnership property, real or personal.

(8) Admit another person or entity as a General or Limited Partner.

**Use all Partnership Assets**

11.02. The General Partner may not use, and specifically promises not to use, directly or indirectly the assets of this Partnership for any purpose other than conducting the business of the Partnership, for the full and exclusive benefit of all its Partners.

**ARTICLE 12. DISSOLUTION OF THE PARTNERSHIP**

**Dissolution and Winding Up**

12.01. The Partnership will be dissolved, and its affairs will be wound up on the expiration of the term provided for the existence of the Partnership in Paragraph 1.05 or on the occurrence of any of the events specified in Paragraphs 12.02 through 12.05, whichever is the first to occur.

**Dissolution Upon Consent**

12.02. The Partnership will be dissolved on any date specified in a consent to dissolution signed by 67 percent of the General Partners and by a majority in interest or specify number or percentage in interest of the Limited Partners.

**Dissolution Upon Loss of a General Partner**

12.03. The Partnership will dissolve and its affairs will be wound up if all General Partners cease to be General Partners.

**Dissolution Upon Sale or Disposition of Assets**



12.04. The Partnership will be dissolved and its affairs wound up when its assets are sold or otherwise disposed of and the only property of the Partnership consists of cash available for distribution to the Partners.

### **Dissolution Upon Judicial Decree**

12.05. The Partnership will be dissolved and its affairs wound up when required by a decree of judicial dissolution entered under Section 15682 of the California Corporations Code.

### **Responsibility for Winding Up**

12.06. (a) On dissolution of the Partnership, the affairs of the Partnership will be wound up by the Managing General Partner.

(b) If no General Partner is available to wind up the affairs of the Partnership, or one or more Limited Partners may wind up the affairs of the Partnership.

(c) If a Limited Partner is authorized to wind up the affairs of the Partnership, the Certificate of Limited Partnership must be amended to add the name and the business, residence, or mailing address of each Limited Partner winding up the Partnership's affairs. Any Limited Partner winding up the Partnership's affairs may not be subject to liability as a General Partner based on this amendment. Any remaining General Partners not winding up the Partnership's affairs need not execute the Certificate of Amendment.

(d) If one or more Limited Partners wind up the affairs of the Partnership, those Limited Partners are entitled to reasonable compensation.

### **Liquidation and Distribution**

12.07. The person or persons responsible for winding up the affairs of the Partnership pursuant to Paragraph 12.06 will take full account of the Partnership assets and liabilities, liquidating the assets of the Partnership as promptly as is consistent with obtaining the fair value of those assets, and applying and distributing the proceeds in the following order:

(1) To creditors of the Partnership, including Partners who are creditors to the extent permitted by law, in satisfaction of liabilities of the Partnership other than liabilities for any of the following:

(a) Distributions owing to Partners before their withdrawal from the Partnership and before the dissolution and winding up of the Partnership.

(b) Distributions owing to Partners on their withdrawal from the Partnership.

(2) Except as otherwise provided in this Agreement, to Partners and former Partners in satisfaction of liabilities for distributions owing to them before their withdrawal from the Partnership and before dissolution and winding up of the Partnership and on their withdrawal from the Partnership

(3) To the Partners in accordance with the provisions set forth in this Agreement for the distribution of the assets of the Partnership.

### **Filing Certificate of Dissolution**

12.08. On dissolution of the Partnership, 67 percent of the interests of Limited Partners representing a majority in interest of the Partners, must execute and file in the office of the Secretary of State a certificate of dissolution.

### **Cancellation of Certificate of Limited Partnership**

12.09. On completion of the winding up of the Partnership's affairs, 67 percent of the General Partners must execute and file in the office of the Secretary of State a certificate of cancellation of the Certificate of Limited Partnership. If the Limited Partners are winding up the Partnership's affairs pursuant to Paragraph 12.06, the person authorized by a majority in interest of the Limited Partners must execute and file the certificate of cancellation of the Certificate of Limited Partnership.

## **ARTICLE 13. RECORD DATES**

### **Setting Record Date for Meetings**

13.01. The record date for determining the Partners entitled to notice of meetings, the right to vote at any meeting, or the right to take any other lawful action with regard to a meeting or the conduct of a vote by the Partners will be the date set by the General Partners or Limited Partners representing more than 67 percent of the Limited Partners' interests or both; however that date may not be more than 60 nor less than 10 days before the date of the meeting nor more than 60 days before any other action.

### **Setting Record Date for Distributions**

13.02. The record date for determining the Partners entitled to any distribution or the right to take any other lawful action will be 10 days before that date; however that date may not be more than 60 days before any such action.

### **Automatic Record Date**

13.03. In the absence of any action setting a record date the record date will be determined as follows:



(1) The record date for determining the Partners entitled to notice of, or to vote at, meetings will be at the close of business on the business day preceding the day on which notice is given, or, if notice is waived, at the close of business on business day preceding the day on which meeting is held.

(2) The record date for determining Partners entitled to give consent to Partnership action in writing without a meeting is the day on which the first written consent is given.

(3) The record date for determining Partners for any other purpose is at the close of business on the day on which the General Partners adopt the record date or the 60<sup>th</sup> day before the date of action relating to that other purpose, whichever is later.

(4) The record date for adjourned meetings is the record date set in determining the Partners entitled to notice of, or to vote at, the original meeting; however, the Partners who called that meeting may fix a new record date for the adjourned meeting and must fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.

## ARTICLE 14. MISCELLANEOUS PROVISIONS

### Entire Agreement

14.01. This Agreement contains the entire understanding among the Partners and supersedes any prior written or oral agreements between them regarding the subject matter contained in this Agreement. There are no representations, agreements, arrangements, or understandings, oral or written, between and among the Partners relating to the subject matter of this Agreement that are not fully expressed in this Agreement.

### Amendments

14.02. (a) Subject to Subparagraph (b) of this Paragraph 14.02, the provisions of this Agreement may be amended by 67 percent of the vote of a majority in interest of the Limited Partners. Any amendment of this Agreement must be in writing, dated, and executed by all Partners. If any conflict arises between the provisions of any amendment and the original Agreement as previously amended, the most recent provisions control.

(b) The provisions of this Agreement governing the right of the Limited Partners to vote on the admission of a General Partner when there is a remaining or surviving General Partner, and the right of the Limited Partners to vote on the admission of a General Partner or an election to continue the business of the Partnership after a General Partner ceases to be a General Partner other than by removal and there is no remaining or surviving General Partner, may not be amended.

### Attorneys' Fees

14.03. If any action at law or in equity, including an action for declaratory or injunctive relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party is entitled to

reasonable attorneys' fees.

#### **Governing Law**

14.04. All questions with regard to the construction of this Agreement and the rights and liabilities of the parties will be governed by the laws of the State of California.

#### **Notices**

14.05. All notices must be in writing and sent by first class United States mail. All notices to the Partners must be sent to them at the addresses shown for them in the records of the Partnership. All notices to the Partnership must be sent to it at its principal executive office in California. Notices will be deemed to have been delivered when deposited in the United States mails.

#### **Successors**

14.06. Subject to the restrictions against assignment of limited partnership interests contained in this Agreement, this Agreement inures to the benefit of and is binding on the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the parties.

#### **Severability**

14.07. If any provisions of this Agreement are declared by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions continue in full force and effect.

#### **Execution by Spouses**

14.08. This Agreement is executed by the Partners and by the spouses of Partners when those spouses are not themselves Partners. The signature of a spouse who is not a Partner may not be construed as making that spouse a Partner or as imposing on that spouse any responsibility for any Partnership obligation but merely as recording that spouse's consent to the execution by his or her spouse of this Agreement and to all of its terms and conditions to the extent that community property interests, if any, may be involved.

#### **Election of Adjusted Basis**

14.09. In the event of a transfer of all or part of the interest of a Limited Partner, the General Partners may elect, on behalf of the Partnership, to adjust the basis of the Partnership property pursuant to Section 754 of the Internal Revenue Code. All other elections required or permitted to be made by the Partnership under the Internal Revenue Code must be made by the General Partners in such manner as will, in their opinion, be most advantageous to a majority in interest of the Limited Partners.

#### **Counterparts**

14.10. This Agreement may be executed in several counterparts and all counterparts so executed constitute one agreement that is binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or the same counterpart.

14.11. The headings preceding the paragraphs of this Agreement are for convenience of reference only, are not a part of this Agreement, and are to be disregarded in the interpretation of any portion of this Agreement.

### Other Instruments

14.12. The parties to this Agreement covenant and agree that they shall execute all other instruments and documents that are or may become necessary or convenient to effectuate and carry out the Partnership created by this Agreement.

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### ARTICLE 15. Special Purpose Provisions.

15.01. Notwithstanding anything to the contrary contained in this Agreement, so long as the Loan (as hereinafter defined) remains outstanding by the Partnership to Wells Fargo Bank Minnesota, N.A., as trustee for the registered holders of Salomon Brothers Mortgage Securities VII, Inc. Commercial Mortgage Pass-Through Certificates, Series 2000-C3, or its successors or assigns (collectively, "Lender"), the Partnership shall:

(a) not enter into any contract or agreement with any affiliate of the Partnership, any constituent party of the Partnership, any guarantor (a "Guarantor") of the Loan or any part thereof or any affiliate of any constituent party or Guarantor, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any such party;

(b) not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (i) the Loan, (ii) unsecured trade and operational debt incurred in the ordinary course of business and (iii) debt incurred in the financing of equipment and other personal property used on the Premises, but, in no event, to exceed \$50,000.00. No indebtedness other than the Loan may be secured (subordinate or pari passu) by the Property;

(c) not make any loans or advances to any third party (including any affiliate or constituent party, any Guarantor or any affiliate of any constituent party or Guarantor), and shall not acquire obligations or securities of its affiliates;

(d) remain solvent and reasonably expect to be able to pay its debts from its assets as the same shall become due;

(e) do all things necessary to observe organizational formalities and preserve its existence, and will not, nor will any partner, member, shareholder, trustee, beneficiary, or principal thereof, amend, modify or otherwise change any provision of this Agreement or such party's organizational documents which pertains to the subject matter of this Paragraph 15.01;

(f) continuously maintain its existence and right to do business in the state where the

Property is located;

(g) conduct and operate its business as presently conducted and operated;

(h) maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates and any constituent party and shall file its own tax returns unless required otherwise by applicable law, and shall maintain its books, records, resolutions and agreements as official records;

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(i) be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate thereof, any constituent party thereof, any Guarantor or any affiliate of any constituent party or Guarantor), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, shall not identify itself or any of its affiliates as a division or part of the other and shall maintain and utilize a separate stationery, invoices and checks;

(j) not, nor shall any constituent party, seek the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the Partnership;

(k) maintain and reasonably expect to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(l) not commingle the funds and other assets of the Partnership with those of any affiliate or constituent party, any Guarantor, or any affiliate of any constituent party of Guarantor, or any other person;

(m) maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or constituent party, any Guarantor, or any affiliate of any constituent party or Guarantor, or any other person;

(n) not guarantee, become obligated for, or hold itself out to be responsible for the debts or obligations of any other person or entity or the decisions or actions respecting the daily business or affairs of any other person or entity;

(o) not permit any affiliate or constituent party independent access to its bank accounts;

(p) pay the salaries of its own employees and maintain a sufficient number of employees in light of its contemplated business operations;

(q) not, nor shall any member, partner, shareholder, trustee, beneficiary or principal thereof, violate Section 10 of the Security Instrument (as hereinafter defined);

For purposes of this Agreement, Affiliate means any person or entity which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Partnership or a Partner. For purposes hereof, the terms "control", "controlled", or "controlling" shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of (x) the

outstanding shares of any class of voting securities or (y) the Partnership or beneficial interests of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over the managing partner(s) or the election of more than one director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity. "Person" or "person" means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, or ~~government or any agency or political subdivision thereof.~~

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(r) not, without the affirmative vote of 100 percent of the Partners, institute proceedings to be adjudicated bankrupt or insolvent; or consent to the institution of bankruptcy or insolvency proceedings against it; or file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Partnership or a substantial part of its property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due; or take any action in furtherance of any such action; or

(s) not terminate or dissolve solely as a consequence of the bankruptcy, insolvency, appointment of a receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of a General Partner of the Limited Partnership or a substantial part of such General Partner's property, or assignment for the benefit of its creditors, or an admission in writing of the inability to pay its debts generally as they become due, or any similar action, of one or more of the General Partners.

"Loan" means that certain first deed of trust loan in the amount of \$7,100,000.00 made by Lender to Wendover Greensboro Ltd. ("Seller") which is being assigned to and assumed by the Partnership on or about the date hereof. "Security Instrument" means that certain first deed of trust, assignment of leases and rents and security agreement made by Seller for the benefit of Lender that secures the Loan, which is being assigned to and assumed by the Partnership on or about the date hereof.

15.02. Any indemnification obligation of the Limited Partnership shall be fully subordinated to any obligations respecting the Property and shall not constitute a claim against the Partnership in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations."

[Remainder of page intentionally left blank.]

Executed as of this \_\_\_\_\_ day of February, 2007.

#7216

California.

**MANAGING GENERAL PARTNER:**

COPELAND REALTY, INC., a California corporation

By: \_\_\_\_\_

Name: Donald E. Copeland

Title: President

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**LIMITED PARTNER:**

COPELAND PROPERTIES 14, L.P., a California limited partnership

By: Copeland Realty Inc., a California corporation , its General Partner

By: \_\_\_\_\_

Name: Donald E. Copeland

Title: President

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# EXHIBIT 3

<b>CP 18 Cash Distributions by Year</b>			
<b>CP 18 Limited Partners</b>	<b>Distribution by Year</b>		
	<b>2011</b>	<b>2012</b>	<b>2013</b>
Adele Hansen	\$ 3,500.01	\$0.00	\$0.00
Albert Reid (Schwab)	\$ 2,499.99	\$0.00	\$0.00
B. Stahr/Survivors Trst	\$0.00	\$0.00	\$0.00
Barbara Stahr	\$ 2,866.68	\$0.00	\$0.00
Bruce & Maureen Taber	\$ 7,599.99	\$0.00	\$0.00
Carol Lowe	\$ 2,499.99	\$0.00	\$0.00
Ziilch Bypass Trust	\$0.00	\$0.00	\$0.00
Ziilch Family Trust	\$0.00	\$0.00	\$0.00
Ziilch Survivor's Trust	\$0.00	\$0.00	\$0.00
D. Ziilch Trst/Survivor	\$0.00	\$0.00	\$0.00
David Ziilch	\$ 1,433.34	\$0.00	\$0.00
Diana Weed/Survivors Tr	\$0.00	\$0.00	\$0.00
Diana Weed	\$ 1,433.34	\$0.00	\$0.00
T Weed/Survivors Trust	\$0.00	\$0.00	\$0.00
Timothy Weed	\$ 1,433.34	\$0.00	\$0.00
Donald Peterson	\$0.00	\$0.00	\$0.00
Ehud Dotan	\$ 1,280.01	\$0.00	\$0.00
Janet Ihde (Schwab)	\$ 4,299.99	\$0.00	\$0.00
Joseph Dotan	\$ 4,539.99	\$0.00	\$0.00
Ross Revocable Trust	\$ 4,299.99	\$0.00	\$0.00
Sandy & Perry Hayes	\$ 3,999.99	\$0.00	\$0.00
Steve Weiss	\$ 1,860.00	\$0.00	\$0.00
Steven Tozier	\$ 2,400.00	\$0.00	\$0.00
W. W. Eure	\$ 6,740.01	\$0.00	\$0.00
Copeland Realty	\$ 4,283.33	\$0.00	\$0.00
CP5	\$ 3,706.68	\$0.00	\$0.00
<b>Total Distributions Per Year</b>	<b>\$ 60,676.67</b>	<b>\$0.00</b>	<b>\$0.00</b>



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# EXHIBIT 4

**CP 18 DISTRIBUTION ANALYSIS**  
**BASED ON ACCOUNTING RECORDS CONTAINED IN EXHIBIT 3 OF THE RECEIVER'S REPLY DECLARATION (Doc 356-1)**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>		<b>Total</b>
Total Distribution to CP18 partners by Year	\$150,993.25	\$215,046.54	\$232,479.90	\$ 248,479.96	\$ 60,676.67	\$0.00	\$0.00		<b>\$ 907,676.32</b>
Total Required Distributions to Meet 6% Threshold	\$148,500.00	\$148,500.00	\$148,500.00	\$ 148,500.00	\$ 148,500.00	\$148,500.00	\$ 148,500.00	-	<b>\$ 1,039,500.00</b>
							<b>6% Threshold Not Met - Shortfall</b>		<b>\$ (131,823.68)</b>

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# EXHIBIT 5



Deposit Receipt and Real Estate Purchase Contract  
 CB Richard Ellis, Inc.  
 Brokerage and Management  
 Licensed Real Estate Brokers

COPY

Sacramento, California, October 20, 2006  
 (date for reference purposes)

Received from Tri Tool, Inc. ("Purchaser"), the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) evidenced by check payable to First American Title as a deposit on account of the purchase price of Nine Million Seven Hundred Thousand and No/100 Dollars (\$9,700,000.00) ("Purchase Price") for that certain property situated in the City of \_\_\_\_\_, County of Sacramento, State of California, described as follows ("Property"): 3041 Sunrise Blvd, consisting of an approximate 125,780-square foot building located on approximately 10.17 acres. Currently, the total site is approximately 11.32 acres (APN 072-0340-100 & 101). Seller will retain approximately 1.15 acres fronting Sunrise Blvd. Purchaser agrees to cooperate with Seller in the creation of said parcel. See Section 31.

Earthquake Special Studies Zone:  No  Yes (see Paragraph 21)  
 Special Flood Hazard Area:  No  Yes (see Paragraph 22)

1. TERMS OF SALE:

The aforementioned check shall be held by CB Richard Ellis, Inc., a Delaware corporation ("Broker") until Seller's acceptance of this Contract, at which time said deposit shall be placed in escrow by Broker for the account of Purchaser. The remainder of the Purchase Price shall be deposited in escrow by Purchaser as follows:

Initial Deposit: .....	\$	<u>100,000.00</u>
Additional Deposit, if any (see Paragraph 7): .....	\$	<u>100,000.00</u>
Seller's Financing (see Paragraph 9): .....	\$	_____
New Loan: .....	\$	_____
(Other): .....	\$	_____
Cash at Close of Escrow <u>(subject to provisions in Section 8)</u> : .....	\$	<u>9,500,000.00</u>
Total Purchase Price: .....	\$	<u>9,700,000.00</u>

2. TITLE AND ESCROW:

2.1 Upon mutual execution of this Contract, Broker shall order a preliminary title report on the Property from First American Title ("Title Company") and shall establish escrow with First American Title ("Escrow Holder"). The parties shall execute escrow instructions as requested by the Escrow Holder, which are consistent with the provisions of this Contract. The provisions of this Contract shall constitute joint (Seller's and Purchaser's) escrow instructions to the Escrow Holder. Said escrow shall provide for a closing on or before thirty (30) days after expiration of time period described in Section 6.

2.2 The preliminary title report on the Property, together with full copies of all exceptions set forth therein, including but not limited to covenants, conditions, restrictions, reservations, notes, deed of trust, easements, rights and rights of way of record, liens, and other matters of record shall promptly be delivered to Purchaser. Purchaser shall have until five (5) days prior to the expiration of time period referenced in Section 6 ~~\_\_\_\_\_ (\_\_\_\_) calendar days after receipt of said preliminary title report, together with copies of said exceptions,~~ within which to notify Seller in writing, of Purchaser's disapproval of any exceptions shown in said title report. In the event of such disapproval, Seller shall have until the scheduled date for closing of escrow within which to attempt to eliminate any disapproved exception(s) from the policy of title insurance to be issued in favor of Purchaser and if not eliminated then the escrow shall be cancelled (and all deposits shall be returned to Purchaser) unless Purchaser then elects to waive its prior disapproval. Such waiver of prior disapproval must be in writing. Failure of Purchaser to disapprove any such exception(s) within the aforementioned time limit shall be deemed to be an approval of said preliminary title report and all of its exceptions. The policy of title insurance shall be a California Land Title Association Standard Coverage Policy ("CLTA") with a liability not exceeding the total Purchase Price. The cost of such CLTA policy shall be paid by Seller. The cost of any other title insurance requested by Purchaser and in excess of such CLTA policy cost shall be paid by Purchaser. Escrow fees shall be paid by 50/50 Seller/Purchaser.

PLEASE INITIAL

2.3 Title is to be conveyed to Purchaser by grant deed at close of escrow, subject only current real estate taxes and the exceptions to title approved by Purchaser in accordance with Paragraph 2.2 above.

3. BONDS AND ASSESSMENTS:

All bonds and assessments which are a lien as of the date of mutual execution of this Contract shall be ASSUMED BY PURCHASER/PAID-OFF-IN-FULL-BY-SELLER ~~(strike one)~~. All bonds and assessments which become a lien after the date of mutual execution of this Contract shall be assumed by the Purchaser at Purchaser's sole option; if Purchaser elects not to assume such bonds and assessments becoming a lien after mutual execution of this Contract, then at Seller's sole option either (a) the bonds and assessments shall be paid off in full by Seller, or (b) this Contract shall terminate and all deposits shall be returned to Purchaser. Purchaser and Seller shall each notify the other in writing of their respective elections allowed in this paragraph promptly after first learning of the existence of bonds or assessments becoming a lien.

DEPERS LAND 5320 PLS 24 10/07/13 10:07:13 AM

*[Signature]*  
 Purchaser's Initials

*[Signature]*  
 Seller's Initials

**EXHIBIT 129**  
 Deponent C. Copeland  
 Date 9-28-13 Rptr. MC  
 WWW.DEPOBOOK.COM

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4. PRORATIONS:

Real property taxes, bonds and assessments assumed by Purchaser, rentals, premiums on insurance accepted by Purchaser, interest on encumbrances, and operating expenses, if any, shall be prorated as of the date of the close of escrow and the cost of any documentary transfer tax and city transfer tax required by any lawful authority shall be paid by Seller.

5. SELLER'S NOTICES:

Seller warrants that Seller has not received, nor is aware of any notification from the building department, health department, or other such City, County, or State authority having jurisdiction, requiring any work to be done on or affecting the Property. Seller further warrants that in the event any such notice or notices are received by Seller prior to the close of escrow and Seller is unable to or does not elect to perform the work required in said notice at Seller's sole cost and expense on or before the close of escrow, said notices shall be submitted to Purchaser for its examination and written approval. Should Purchaser fail to approve said notice and thereby elect not to acquire the Property subject to the effect of same, within five (5) calendar days from the date Seller submits said notice to Purchaser, then this Contract shall be cancelled without further liability to either party, and all deposits (including any that may have been released to Seller) shall be returned immediately to Purchaser.

6. PROPERTY CONDITION AND PURCHASER'S INVESTIGATION:

Seller further warrants that to the best of its knowledge the Property and the improvements thereon do not violate applicable building, zoning, environmental, or other statutes or regulations and that Seller is unaware of any material defect in the Property or improvements thereon with the exception of the following: N/A. Purchaser shall have forty-five (45) calendar days from mutual execution of this Contract ("Investigation Period") within which to secure financing satisfactory to the Purchaser, investigate the Property, its value, zoning, unrecorded encumbrances, environmental entitlement and building matters affecting the Property, its condition - including, but not limited to the presence of asbestos, hazardous materials, and underground storage tanks - its suitability for Purchaser's intended use, and any other matters Purchaser determines relate to the Property. If Purchaser gives written notice to Seller, by 5:00 p.m. of the final day of the Investigation Period, of dissatisfaction with any of the referenced matters, this Contract shall be deemed cancelled and all deposits shall be returned immediately to Purchaser. If Purchaser fails to give written notice of dissatisfaction by 5:00 p.m. of the last day of the Investigation Period, then Purchaser's right to object to such matter shall be deemed waived and this Contract shall continue in full force and effect with no further right of Purchaser to cancel. Thereafter, if Purchaser fails to perform under this Contract, Purchaser's deposit(s) shall be released to Seller in accordance with Paragraph 10 below.

7. ADDITIONAL DEPOSIT: (Strike if not applicable)

This Contract has not been cancelled pursuant to Paragraph 6 above. Purchaser shall deposit into escrow additional cash in the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00). Such additional deposit shall be made within two (2) business days following the last day of the Investigation Period. Such amount shall be applied toward the Purchase Price. Upon receipt, Escrow Holder shall release the entire \$200,000.00 deposit to Seller.

8. PURCHASER'S OPTION TO EXTEND ESCROW: (Strike if not applicable) Reference Paragraph 31

8.1 Purchaser shall have the option, at Purchaser's sole and absolute discretion, to extend the date of close of escrow for a period of thirty (30) calendar days. Purchaser may exercise this extension option a total of two (2) time(s), for a maximum cumulative extension period of sixty (60) calendar days. Each extension shall be made in writing prior to the scheduled close of escrow date. Each extension shall be effective only if Purchaser deposits cash into escrow (in addition to any deposits previously made) in the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00) each time, and at the time each extension option is exercised.

8.2 Each deposit made pursuant to Paragraph 8.1 above SHALL/SHALL NOT (strike one) be applied toward the cash required to close of escrow and toward the Purchase Price.

8.3 Each deposit made pursuant to Paragraph 8.1 above shall be immediately released to Seller by the Escrow Holder. (Strike if not applicable.)

9. PURCHASE-MONEY-NOTE: (Strike if not applicable)

Purchaser shall give Seller a deed of trust on the Property, to secure a promissory note of Purchaser to Seller in the amount shown. The note shall provide for interest on unpaid principal at the rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum, with principal and interest to be paid as follows: \_\_\_\_\_

This note and deed of trust shall be on the current forms commonly used by the escrow holder, and be junior and subordinate only to any existing notes and/or New Loan expressly called for by this Contract. The note and the deed of trust shall contain provisions regarding the following:

- (i) Prepayment. Principal may be prepaid in whole or in part at any time without penalty, at the option of Purchaser.
(ii) Late Charge. A late charge of six percent (6%) shall be payable with respect to any payment of principal, interest, or other charges, not made within ten (10) days after it is due.
(iii) Due on Sale. In the event the Purchaser sells or transfers title to the Property or any portion thereof, then the Seller may, at Seller's option, require the entire unpaid balance of the Purchase-Money Note to be then paid in full.

10. LIQUIDATED DAMAGES: (This liquidated damages paragraph is applicable only if initialed by both parties.)

PURCHASER AND SELLER RECOGNIZE THAT SELLER'S PROPERTY WILL BE REMOVED FROM THE MARKET DURING THE EXISTENCE OF THIS AGREEMENT AND THAT IF THIS TRANSACTION IS NOT

DEPLAND-5320 DE-3741... 2 of 8

Purchaser's initials [Signature] Seller's Initials [Signature]

CONSUMMATED BECAUSE OF PURCHASER'S DEFAULT, SELLER SHOULD BE ENTITLED TO COMPENSATION FOR SUCH DETRIMENT; HOWEVER, IT IS EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE EXTENT OF THE DETRIMENT AND, TO AVOID THIS PROBLEM, PURCHASER AND SELLER AGREE THAT IF THIS TRANSACTION IS NOT CONSUMMATED BECAUSE OF PURCHASER'S DEFAULT, SELLER SHALL BE ENTITLED TO RECOVER FROM PURCHASER AS LIQUIDATED DAMAGES THE AMOUNT OF ALL DEPOSITS THAT HAVE ACTUALLY BEEN MADE BY PURCHASER AT THE TIME OF PURCHASER'S DEFAULT PLUS INTEREST, IF ANY, ACTUALLY EARNED THEREON. THIS AMOUNT HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' BEST ESTIMATE OF SELLER'S DAMAGES. THE PARTIES AGREE THAT THE SUM STATED ABOVE AS LIQUIDATED DAMAGES SHALL BE IN LIEU OF ANY OTHER RELIEF TO WHICH SELLER MIGHT OTHERWISE BE ENTITLED BY VIRTUE OF THIS AGREEMENT OR BY OPERATION OF LAW (EXCEPT PURCHASER SHALL CONTINUE TO BE LIABLE ADDITIONALLY TO SELLER PURSUANT TO PARAGRAPH 12 BELOW FOR ANY CLAIMS ARISING BY VIRTUE OF PURCHASER'S INSPECTIONS AND TESTS). UPON PAYMENT OR RELEASE OF SAID SUM TO SELLER, PURCHASER SHALL BE RELEASED FROM ANY FURTHER LIABILITY TO SELLER AND ANY ESCROW CANCELLATION FEES AND TITLE COMPANY CHARGES SHALL BE PAID BY SELLER.

[Signature]  
PURCHASER'S INITIALS

[Signature]  
SELLER'S INITIALS

11. PURCHASER'S INSPECTION RESPONSIBILITY:

Purchaser and Seller understand that Broker has not made any investigation or determination other than specifically expressed herein regarding: the presence or absence of hazardous materials, toxic wastes or other undesirable substances; the value of the property; the present or future use of the property; the existence of or possibility of future bonds or assessments; violations of any federal, state, county, or municipal ordinances, statutes or regulations; proposed acquisition of the property by the federal, state, county or municipal governments; the correctness of income and expense information; or the existence of physical defects in the subject property. Purchaser and Seller hereby release Broker from any liability relating thereto and agree that such investigation and determination has been Purchaser's sole responsibility and Broker shall not be held responsible therefor.

12. RIGHT OF ENTRY:

[Signature]  
PURCHASER'S INITIALS

At any time during the escrow period, Purchaser, and its agents and representatives, shall have the right at reasonable times to enter upon the Property for the purpose of making reasonable inspections and tests. Following any such entry or work, unless otherwise directed in writing by Seller, Purchaser shall return the Property to the condition it was in prior to such entry or work, including the recompaction or removal of any disrupted soil or material as Seller may reasonably direct. All such inspections and tests and any other work conducted or materials furnished with respect to the Property by or for Purchaser shall be paid for by Purchaser as and when due and Purchaser shall indemnify, defend, protect and hold harmless Seller and the Property of and from any and all claims, liabilities, demands, losses, costs, expenses (including reasonable attorney's fees), damages or recoveries, including those for injury to person or property, arising out of or relating to any such work or materials or the acts or omissions of Purchaser, its agents or employees in connection therewith. Purchaser to be given keys to the Property and will be given twenty-four (24)-hour access. Purchaser may also contact Property manager directly.

13. SELLER'S DISCLOSURES:

Seller agrees to disclose in writing to Broker and to Purchaser, and to provide copies of relative studies, documents, land surveys and building plans to Broker and Purchaser, to the extent such are in Seller's possession or readily available to Seller, within five (5) calendar days from mutual execution of this Contract, any and all information which he/she/it has regarding present and future zoning and environmental matters affecting the Property, and regarding the condition of the Property, including, but not limited to wetlands, structural, mechanical and soils conditions, the presence and location of asbestos, PCB transformers, other toxic, hazardous or contaminated substances, and underground storage tanks, in, on, or about the Property, and all other matters listed here: \_\_\_\_\_.

14. DESTRUCTION OF IMPROVEMENTS:

If the improvements of the Property are destroyed or materially damaged prior to the close of escrow, this Contract shall, at Purchaser's election, immediately terminate, and all deposits (including any that may have been released to Seller) shall be returned immediately to Purchaser. A destruction shall be considered material if the cost of repair or replacement without deduction for depreciation exceeds 10% of the Purchase Price, provided that, if applicable building codes or other laws or regulations require work exceeding the repair or replacement of the actual damage, the cost shall be considered to include all the work. A taking by eminent domain is material if the diminution of market value exceeds the percentage stated above. This Contract shall be governed by the Uniform Vendor and Purchaser Risk Act, California Civil Code §1652 in effect at the date of this Contract to the extent said Act is not in conflict with express provisions of this Contract. If Purchaser elects to accept the Property in its then condition, all proceeds of insurance payable to Seller by reason of such damage shall be paid to Purchaser.

15. ACCEPTANCE:

Unless Seller accepts this offer to purchase Property by signing and delivering a copy to Purchaser or Purchaser's agent, on or before October 31, 2008, this offer shall become null and void, and the deposit made herewith shall be returned to Purchaser.

16. FIRPTA:

The Foreign Investment in Real Property Tax Act (FIRPTA), IRC 1445, requires that every purchaser of U.S. real property must, unless an exemption applies, deduct and withhold from Seller's proceeds ten percent (10%) of the gross sales price. The primary exemptions which might be applicable are: (a) Seller provides Purchaser with an affidavit under penalty of perjury that Seller is not a "foreign person" as defined in FIRPTA, or (b) Seller provides Purchaser with a "qualifying

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[Signature]  
Purchaser's Initials

[Signature]  
Seller's Initials



23. DOCUMENT REVIEW:

This document (including its exhibits and addendums, if any) has been prepared by Broker for approval by Purchaser's and Seller's respective attorneys. Broker makes no representation or recommendation as to the legal sufficiency or tax consequences of this document or the transaction to which it relates. These are questions for an attorney or accountant.

MISCELLANEOUS PROVISIONS

- 24. Without being relieved of any liability under this Contract, Purchaser shall have the right to take title to the subject Property in a name other than that shown above.
- 25. Possession of Property shall be delivered to the Purchaser on the date of close of escrow unless otherwise provided herein.
- 26. This Contract shall constitute the entire Real Estate Purchase Contract between Purchaser and Seller and supersedes any and all agreements between the parties hereto regarding the Property which are prior in time to this Contract.
- 27. Time is of the essence of this Contract.
- 28. Any addendum attached hereto and either signed or initialed by Purchaser and Seller shall be deemed a part hereof.
- 29. This Contract may not be amended, altered, or modified in any respect whatsoever except by further agreement in writing executed by Purchaser and Seller.
- 30. The paragraph headings in this Contract are for convenience of reference only and are not intended as part of this agreement.

ADDITIONAL PROVISIONS

31. LOT LINE ADJUSTMENT:

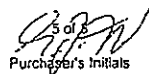
  
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Seller, at Seller's sole cost and expense, shall finalize a lot line adjustment prior to the close of escrow on a 1.15-acre parcel. Said parcel is located at the northwest corner of the Property (reference Exhibit "A"). Seller shall provide Purchaser with a preliminary drawing of the proposed site within fourteen (14) days of mutual execution of the Purchase Contract. Seller shall also provide for approval of all easement areas for ingress and egress. In no event shall there be any shared parking agreement between the existing parcel and the newly formed parcel.

In the event Purchaser is ready to close escrow yet Seller has not finalized the lot line adjustment, then close of escrow shall automatically be extended for a thirty (30)-day period without Purchaser being required to increase its deposit as outlined in Paragraph 8—Purchaser's Option to Extend Escrow.

Purchaser hereby agrees to purchase the Property for the price and upon the terms and conditions herein expressed. All tenders and notices required hereunder shall be made and given to either of the parties hereto at their respective addresses herein set forth with copies thereof to the office of CB Richard Ellis. In the event any litigation or other legal proceedings are instituted to enforce or declare the meaning of any provisions of this Contract, the prevailing party shall be entitled to its costs, including reasonable attorneys fees. Purchaser hereby acknowledges receipt of a copy of this Contract.

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 5 of 5  
 Purchaser's Initials

  
 Seller's Initials

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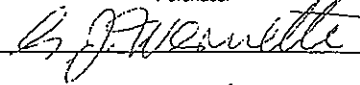


Broker: CB Richard Ellis, Inc.  
Licensed Real Estate Broker

Date: 11-1-06

By:   
Michael Lyons

Tri Tool, Inc.  
Purchaser

By: 

Title: Senior Vice President

Title: President

Address: 555 Capitol Mall, Suite 100  
Sacramento, CA 95814

Address: 1039 Mountain Airt  
Reno, NV 89511

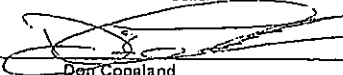
Telephone: (916) 446-8290

Telephone: \_\_\_\_\_

The undersigned Seller hereby approves and accepts the foregoing Contract and agrees to sell the above described Property upon the terms and conditions herein set forth. Seller hereby acknowledges receipt of a copy of this Contract.

Date: 11-1-06

Copeland Props Three LP, a California limited partnership  
Seller

By:   
Don Copeland

Title: General Partner

By: \_\_\_\_\_

Title: \_\_\_\_\_

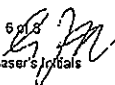
Address: 25809 Business Center Drive, #B  
Redlands, CA 92374

Telephone: (909) 799-8580

CONSULT YOUR ADVISORS - This document (including its exhibits and addenda, if any) has been prepared for review and approval by your attorney. Broker makes no representation or recommendation as to the legal sufficiency or tax consequences of this document or the transaction to which it relates. Consult your attorney and tax accountant.

(ny)77.dmv7.10-20-08)

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Purchaser's Initials

  
Seller's Initials

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**NON-FOREIGN SELLER AFFIDAVIT**

(To be executed if the sellers are not foreign persons or entities)

Property: 3041 Sunrise Boulevard, Sacramento County, CA

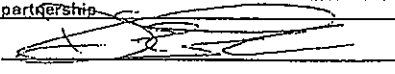
The undersigned(s) hereby certify:

1. The names, addresses and United States taxpayer identification/social security numbers of all of the owners of the above property are as follows and there is no other person or entity who has an ownership interest in the property (attach addendum if more space is needed):

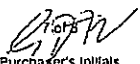

SELLER'S NAME	U.S. TAX I.D. NUMBER/ SOCIAL SECURITY NUMBER	ADDRESS (Individual must use home address)
Copeland Props Three LP, a California limited partnership	20-0760619	25809 Business Center Dr., #B Redlands, CA 92374

2. None of the owners of the Property are nonresident aliens for purposes of U.S. income taxation or, if Seller is an entity, it is not a foreign corporation, foreign partnership, foreign trust, or foreign estate, as such terms are defined in the Internal Revenue Code and regulations thereto.
3. I (we) understand that the purchaser of the property intends to rely on the foregoing representations in connection with the Foreign Investment in Real Property Tax Act and that this certification may be disclosed to the Internal Revenue Service.

The undersigned hereby declare under penalty of perjury that the foregoing is true and correct.

Seller: Copeland Props Three LP, a California limited partnership Date: \_\_\_\_\_  
 By:  Title: \_\_\_\_\_  
 Seller: \_\_\_\_\_ Date: \_\_\_\_\_  
 By: \_\_\_\_\_ Title: \_\_\_\_\_  
 Seller: \_\_\_\_\_ Date: \_\_\_\_\_  
 By: \_\_\_\_\_ Title: \_\_\_\_\_  
 Seller: \_\_\_\_\_ Date: \_\_\_\_\_  
 By: \_\_\_\_\_ Title: \_\_\_\_\_

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 Purchaser's Initials  
 Seller's Initials

CB RICHARD ELLIS, INC. SALE/LEASE DISCLOSURES

Property: 3041 Sunrise Boulevard, Sacramento County, CA

Flood Zones. According to NFIP Panel Number D50262 0210 E, dated 7/6/98 [specify source], the Property  is /  may or may not be located in a flood zone. Many lenders require flood insurance for properties located in flood zones, and government authorities may regulate development and construction in flood zones. Whether or not located in a flood zone, properties can be subject to flooding and moisture problems, especially properties on a slope or in low-lying areas or in a dam inundation zone (California Government Code Section 8589.5). Buyers and tenants should have their experts confirm whether the Property is in a flood zone and otherwise investigate and evaluate these matters. Flood Zone Designation, Zone X.

Earthquakes. Earthquakes occur throughout California. According to Fault-Rupture Hazard Zones in California Special Publication 42 [specify source], the Property  is /  may or may not be situated in an Earthquake Fault Zone and/or a Seismic Hazard Zone (Sections 2621 et seq. and Sections 2690 et seq. of the California Public Resources Code, respectively). Property development and construction in such zones generally are subject to the findings of a geologic report prepared by a state-registered geologist. Whether or not located in such a zone, all properties in California are subject to earthquake risks and may be subject to a variety of state and local earthquake-related requirements, including retrofit requirements. Among other items, all new and existing water heaters must be braced, anchored or strapped to resist falling or horizontal displacement, and in sales transactions, sellers must execute a written certification that the water heaters are so braced, anchored or strapped (California Health and Safety Code Section 19211). Buyers and tenants should have their experts confirm whether the Property is in any earthquake zone and otherwise investigate and evaluate these matters.

Hazardous Materials and Underground Storage Tanks. Due to prior or current uses of the Property or in the area or the construction materials used, the Property may have hazardous or undesirable metals (including lead-based paint), minerals (including asbestos), chemicals, hydrocarbons, petroleum-related compounds, or biological or radioactive/emissive items (including electrical and magnetic fields) in soils, water, building components, above or below-ground tanks/containers or elsewhere in areas that may or may not be accessible or noticeable. Such items may leak or otherwise be released. Asbestos has been used in items such as fireproofing, heating/cooling systems, insulation, spray-on and tile acoustical materials, floor tiles and coverings, roofing, drywall and plaster. If the Property was built before 1978 and has a residential unit, sellers/landlords must disclose all reports, surveys and other information known to them regarding lead-based paint to buyers and tenants and allow for inspections (42 United States Code Sections 4851 et seq.). Sellers/landlords are required to advise buyers/tenants if they have any reasonable cause to believe that any hazardous substance has come to be located on or beneath the Property (California Health and Safety Code Section 25359.7), and sellers/landlords must disclose reports and surveys regarding asbestos to certain persons, including their employees, contractors, buyers and tenants (California Health and Safety Code Sections 25915 et seq.); buyers/tenants have similar obligations. Have your experts investigate and evaluate these matters.

Americans with Disabilities Act (ADA). The Americans With Disabilities Act (42 United States Code Sections 12101 et seq.) and other federal, state and local requirements may require changes to the Property. Have your experts investigate and evaluate these matters.

Taxes. Sales, leases and other real estate transactions can have federal, state and local tax consequences. In sales transactions, Internal Revenue Code Section 1446 requires buyers to withhold and pay to the IRS 10% of the gross sales price within 10 days of the date of a sale unless the buyers can establish that the sellers are not foreigners, generally by having the sellers sign a Non-Foreign Seller Affidavit. Depending on the structure of the transaction, the tax withholding liability can exceed the net cash proceeds to be paid to the sellers at closing. California imposes an additional withholding requirement equal to 3 1/3% of the gross sales price not only on foreign sellers but also out-of-state sellers and sellers leaving the state if the sales price exceeds \$100,000. Withholding generally is required if the last known address of a seller is outside California, if the proceeds are disbursed outside of California or if a financial intermediary is used. Have your experts investigate and evaluate these matters.

Fires. California Public Resources Codes Sections 4125 et seq. require sellers of real property located within state responsibility areas to advise buyers that the property is located within such a wildland zone, that the state does not have the responsibility to provide fire protection services to any structure within such a zone and that such zones may contain substantial forest/wildland fire risks. Government Code Sections 51178 et seq. require sellers of real property located within certain fire hazard zones to disclose that the property is located in such a zone. Sellers must disclose that a property located in a wildland or fire hazard zone is subject to the fire prevention requirements of Public Resources Code Section 4291 and Government Code Section 51182, respectively. Sellers must make such disclosures if either the sellers have actual knowledge that a property is in such a zone or a map showing the property to be in such a zone has been provided to the county assessor. Properties, whether or not located in such a zone, are subject to fire/life safety risks and may be subject to state and local fire/life safety-related requirements, including retrofit requirements. Have your experts investigate and evaluate these matters.

Broker Representation. CB Richard Ellis, Inc. is a national brokerage firm representing a variety of clients. Depending on the circumstances, CB Richard Ellis, Inc. may represent both the seller/landlord and the buyer/tenant in a transaction, or you may be interested in a property that may be of interest to other CB Richard Ellis, Inc. clients. If CB Richard Ellis, Inc. represents more than one party with respect to a property, CB Richard Ellis, Inc. will not disclose the confidential information of one principal to the other.

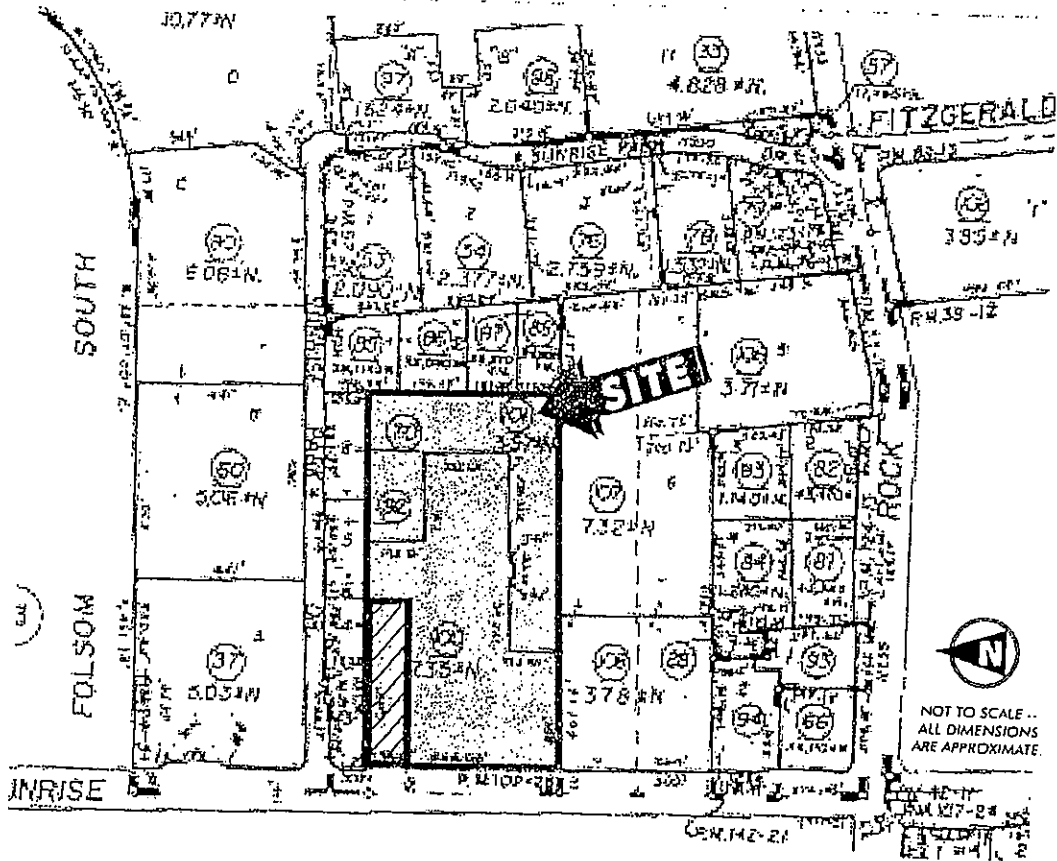
Seller/Landlord Disclosure, Delivery of Reports, Pest Control Reports and Compliance with Laws. Sellers/landlords are hereby requested to disclose directly to buyers/tenants all information known to sellers/landlords regarding the Property, including but not limited to, hazardous materials (including toxic mold contamination), zoning, construction, design, engineering, soils, title, survey, fire/life safety, and other matters, and to provide buyers/tenants with copies of all reports in the possession of or accessible to sellers/landlords regarding the Property. Sellers/landlords and buyers/tenants must comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act. If a pest control report is a condition of the purchase contract, buyers are entitled to receive a copy of the report and any certification and notice of work completed.

Property Inspections and Evaluations. Buyers/tenants should have the Property thoroughly inspected and all parties should have the transaction thoroughly evaluated by the experts of their choice. Ask your experts what investigations and evaluations may be appropriate as well as the risks of not performing any such investigations or evaluations. Information regarding the Property supplied by the real estate brokers has been received from third party sources and has not been independently verified by the brokers. Have your experts verify all information regarding the Property, including any linear or area measurements and the availability of all utilities. All work should be inspected and evaluated by your experts, as they deem appropriate. Any projections or estimates are for example only, are based on assumptions that may not occur and do not represent the current or future performance of the property. Real estate brokers are not experts concerning nor can they determine if any expert is qualified to provide advice on legal, tax, design, ADA, engineering, construction, soils, title, survey, fire/life safety, insurance, hazardous materials (including toxic mold contamination), or other such matters. Such areas require special education and, generally, special licenses not possessed by real estate brokers. Consult with the experts of your choice regarding these matters.

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Buyer's Initials

Seller's Initials



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EXHIBIT A



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Exhibit 5 -9

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# EXHIBIT 6

## LIMITED PARTNERSHIP AGREEMENT

### Preamble

**AGREEMENT** of Limited Partnership made this 23rd day of February, 2004, by and between Copeland Realty, Inc., General Partner and the Limited Partners.

**IT IS HEREBY AGREED:**

### ARTICLE 1. THE PARTNERSHIP

#### Formation of Limited Partnership

1.01. The General Partner and the Limited Partners agree to form a limited partnership pursuant to the provisions of the California Revised Limited Partnership Act.

#### Name of Partnership

1.02. The name of the Partnership is Copeland Properties Three, a Limited Partnership. The business of the Partnership shall be conducted under that name.

#### Purpose of Partnership

1.03. The Partnership will engage in the business of real property ownership and any activities that are related or incidental to that business.

#### Principal Place of Business or Executive Office

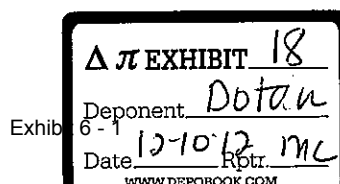
1.04. The principal place of business or executive office of the Partnership is at 25809 Business Center Drive, Suite F Redlands, CA 92374, San Bernardino County, State of California, or at any other place within San Bernardino County, California, as may be determined from time to time by the General Partner. If the General Partner changes the principal place of business or executive office of the Partnership, it must give written notice of the change of address to each Limited Partner at least ten (10) days before that change.

#### Term of Partnership

1.05. The term of the Partnership commences on the date on which the Partnership's Certificate of Limited Partnership is filed by the Secretary of State of California in the manner required by the California Revised Limited Partnership Act or a date not more than 90 days after date certificate is received by Secretary of State and continues 10 years after the purchase of its first real property parcel.

#### Certificate of Limited Partnership

1.06. The General Partner will immediately execute a Certificate of Limited Partnership



and cause that Certificate to be filed in the office of the Secretary of State of California. Thereafter, the General Partner will execute and cause to be filed certificates of amendment of the Certificate of Limited Partnership or Restated Certificates of Limited Partnership whenever required by the California Revised Limited Partnership Act or this Agreement. The General Partner will execute and cause to be filed original or amended certificates evidencing the formation and operation of the Partnership whenever required under the laws of any other states in which the Partnership determines to do business. The General Partner will also record a certified copy of the Certificate and any amendment in the office of the county recorder in every county in which the Partnership owns real property.

#### Definitions

1.07. Except as otherwise stated in this Agreement or as the context of this Agreement requires, the terms defined in this Section, for the purposes of this Agreement, have the meanings specified in this Section.

(1) "Agreement" means this Limited Partnership Agreement, as amended from time to time.

(2) "Assignee" means a person who has acquired a beneficial interest in the limited partnership interest of a Limited Partner but who is not a "substituted Limited Partner."

(3) "Assigning Limited Partner" means a Limited Partner who has assigned a beneficial interest in that Partner's limited partnership interest but the Assignee of which has not become a "substituted limited partner."

(4) "Cash available for distribution" means total cash income from operations during any given accounting period plus the cash proceeds, if any, from the sale or other disposition, refinancing, or liquidation of Partnership property, less cash expenses as well as any allowances or reserves for contingencies or for repair to and maintenance of properties, and anticipated obligations the General Partner shall in its discretion deem necessary during the same accounting period.

(5) "Distribution" means any cash distributed to the Partners from cash available for distribution.

(6) "General Partner" refers to Copeland Realty, Inc., or any successor.

(7) "Limited Partner" refers to any person who is admitted to the Partnership, either as an original Limited Partner or as a substituted Limited Partner, and who executes this Agreement. A "new Limited Partner" is a Limited Partner other than an original or substituted Limited Partner who has purchased a limited partnership interest from the Partnership by making the required contribution to the Partnership.

(8) "Majority in interest of the Limited Partners" means 67% of the interests of the Limited Partners.

(9) "Net income" and "net loss" means the net income or net loss of the Partnership as determined for the purposes of computing federal income taxes pursuant to the Internal Revenue Code in accordance with generally accepted accounting principles.

(10) "Partners" or "the Partners" refers collectively to the General Partner and the Limited Partners. Reference to "Partner" is a reference to any one of the Partners.

(11) "Partnership" refers to the Limited Partnership created under this Agreement and the Certificate of Limited Partnership to be filed with the Office of the Secretary of State pursuant to the California Revised Limited Partnership Act.

(12) "Vote" includes written consent.

(13) "Cumulative non compounded annualized profit" (CNCAP) is the total profit/loss from all sources, including ordinary income, investment return on cash reserves and capital gain, from the inception of the partnership through the present date. It will include both realized and non-realized gains, based on the fair market value of all partnership assets net of disposition costs.

(14) The percent of CNCAP above is computed using "original cash/property net equity" (OCPNE) of all partners as the denominator, CNCAP as the numerator and then the remainder divided by time elapsed from close of first purchase escrow.

i.e.  $\frac{\text{CNCAP}}{\text{OCPNE}} = \text{Gross CNCAP percent}$

Then

$\frac{\text{GCNCP\%}}{\text{Years of time elapsed}} = \text{Percent of CNCAP}$

**ARTICLE 2. MEMBERS OF PARTNERSHIP**

**Original General Partner**

2.01. The name of the original General Partner is as follows: Copeland Realty, Inc.

**Original Limited Partners**

2.02. The name of each original Limited Partners are as follows:

\_\_\_\_\_

**Admission of Additional General Partner**

2.03. Subject to any other provision of this Agreement, a person may be admitted as a



General Partner after the Certificate of Limited Partnership is filed only with the written consent of General Partner and the vote or written consent of 67% of the Limited Partners.

#### **Replacement of Sole Remaining General Partner**

2.04. If a General Partner ceases to be a General Partner and there is no remaining General Partner, one or more new General Partner may be admitted to the Partnership on the written consent of 67% of the Limited Partners; provided that the Limited Partners agree in writing to continue the business of the Partnership pursuant to Paragraph 12.03 of this Agreement.

#### **Admission of Additional Limited Partners**

2.05. Subject to the provisions of Article 9 of this Agreement, governing transfers of partnership interests, a person may acquire an interest in the Partnership directly from the Partnership and be admitted as an additional Limited Partner on 67 percent of the vote of all the members of the Partnership.

#### **Admission of Substituted Limited Partner**

2.06. The assignee of a limited partnership interest may be admitted as a substituted Limited Partner with the vote or written consent of the General Partner and all the Limited Partners.

#### **Amendment of Partnership Records**

2.07. On admission of a General Partner or Limited Partner, the General Partner will add the name, address, contribution, and that Partner's share in Partnership profits or losses to the list of Partners kept in the principal executive office of the Partnership.

#### **Additional Partners. Bound by Agreement**

2.08. Before any person is admitted to the Partnership as a General or Limited Partner, that person shall agree in writing to be bound by all of the provisions of this Agreement.

### **ARTICLE 3. FINANCING**

#### **Capitalization**

3.01. The Partnership shall have an initial capitalization of \$2,100,000.00 which shall be contributed by the Limited Partners, as further described in Paragraph 3.03 of this Agreement.

### **General Partner Capital Contribution**

3.02. (a) The General Partner named in this Agreement shall contribute to the capital of the Partnership in cash the sum of \$21,000.00 for a 1% interest.

(b) Each new or replacement General Partner admitted after the execution of this Agreement shall contribute, before admission to the Partnership, a sum that shall be determined by the General Partner. In the alternative, or in addition to the contribution provided for in this Agreement, the remaining General Partner may require a General Partner who is being admitted to replace a former General Partner to purchase the interest of the former General Partner pursuant to Paragraphs 9.04, 9.05, and 9.06 of this Agreement. These provisions are subject, however, to any requirements for approval by the Limited Partners specified elsewhere in this Agreement. If there are no remaining General Partners, the contribution and interest of a new or replacement General Partner shall be determined by the Limited Partners in accordance with Paragraph 2.04 of this Agreement.

### **Limited Partner Capital Contribution**

3.03. Each of the Limited Partners shall contribute to the capital of the Partnership cash or real estate with net equity value in the amount of \$210,000.00 for each 10% interest.

### **Initial Capital Contributions From New Limited Partners**

3.04. Each new Limited Partner admitted to the Partnership shall contribute to the capital of the Partnership.

### **Additional Capital Contributions**

3.05. No additional contributions of capital shall be required of the Limited Partners.

### **Interest on Contributions**

3.06. No interest shall be paid on the initial contributions to the Partnership capital.

### **Withdrawal and Return of Capital**

3.07. (a) No Partner may withdraw any portion of the capital of the Partnership and no Partner, General or Limited, is entitled to the return of that Partner's contribution to the capital of the Partnership except on the dissolution of the Partnership or the withdrawal of that Partner from the Partnership and that Partner's compliance with Paragraphs 9.02 and 9.03 of this Agreement.

(b) No Partner is entitled to demand the distribution of Partnership property other than cash as part of the return of that Partner's capital contribution to the Partnership.

( c) No Limited Partner has a priority over any other Limited Partner as to the return of a contribution on the dissolution of the Partnership.

**ARTICLE 4. ALLOCATION AND DISTRIBUTION OF PROFITS AND LOSSES**

**Allocation of Profits and Losses**

4.01. The net profits of the Partnership are allocated to, and any net losses suffered by the Partnership will be borne by, the Partners in the following proportions:

**GENERAL PARTNER** 0% of the first 10% of cumulative non compounded profit; then 10% of next 2%; then 20% of next 4%; then 40% of the next 5%; then 50% of the remainder.

**LIMITED PARTNERS** First 10% of cumulative non compounded profit; then 90% of the next 2% of cumulative non compounded profit; then 80% of the next 4%; then 60% of the next 5%; then 50% of the remainder.

**EXAMPLE A**

Example of profit distribution at various profit levels:

<u>Total</u>	<u>General</u>	<u>Limited</u>
10%	0%	10.0%
12%	.2%	11.8%
16%	1.0%	15.0%
21%	3.0%	18.0%
25%	5.0%	20.0%
35%	10.0%	25.0%

**Distribution of Cash Available for Distribution**

4.02. Annually cash available for distribution, as determined by the General Partner, will be distributed to the Partners as follows:

- (1) First the Limited Partners shall receive annual cash distribution not to exceed 6% of the initial capital contribution made by the Limited Partner. ( See Exhibit A attached hereto) .
- (2) Next the General Partner shall receive payment for services not to exceed .5% of property purchase price.
- (3) All remaining cash available for distribution shall be distributed to the Limited Partners.

18-6

4.03. No General Partner or Limited Partner has the right to receive property other than money on the distribution of profits. No Partner may be compelled to accept the distribution of any asset in kind from the Partnership in lieu of any distribution of money due that Partner.

#### **Priorities Among Limited Partners**

4.04. No Limited Partner shall be entitled to any priority or preference over any other Limited Partner as to the distribution of cash available for distribution.

### **ARTICLE 5. MANAGEMENT OF PARTNERSHIP AFFAIRS**

#### **Control and Management**

5.01. The General Partner has the sole and exclusive control of the Limited Partnership. Subject to any limitations expressly set forth in this Agreement, the General Partner has the power and authority to take any action from time to time as it may deem to be necessary, appropriate, or convenient in connection with the management and conduct of the business and affairs of the Partnership, including without limitation, the power to do the following:

(1) Acquire property, including real or personal property, for the use of the Partnership on the terms and conditions as the General Partner may, from time to time, determine to be advantageous to the Partnership;

(2) Dispose of Partnership property, either in the ordinary course of the business of the Partnership or, from time to time, when the General Partner deems the disposition to be in the best interests of the Partnership;

(3) Finance the Partnership's activities by borrowing money from third parties on the terms and under the conditions as the General Partner deems appropriate. When money is borrowed for Partnership purposes, the General Partner is authorized to pledge, mortgage, encumber, or grant a security interest in Partnership properties as security for the repayment of those loans;

(4) Employ, retain, or otherwise secure the services of any personnel or firms deemed necessary by the General Partner for or to facilitate the conduct of Partnership business affairs, all on the terms and for the consideration as the General Partner deems advisable; and

(5) Take any and all other action permitted by law that is customary in or reasonably related to the conduct of the Partnership business or affairs.

#### **Restrictions on Limited Partners**

5.02. The Limited Partners do not have either the obligation or the right to take part, directly or indirectly, in the active management or control of the business of the Partnership,

except as otherwise permitted in this Agreement and except for the following:

- (1) Acting as a contractor for or an agent or employee of the Partnership or a General Partner, or an officer, director, or shareholder of a corporate General Partner.
- (2) Consulting with and advising a General Partner with regard to the business of the Partnership.
- (3) Acting as surety for the Partnership or guaranteeing one or more specific debts of the Partnership.
- (4) Approving or disapproving an amendment to this Agreement.

#### **Standard of Care of General Partner**

5.03. The General Partner must exercise ordinary business judgment in managing the affairs of the Partnership. Unless fraud, deceit, or a wrongful taking is involved, the General Partner is not liable or obligated to the Limited Partners for any mistake of fact or judgment made by the General Partner in operating the business of the Partnership that results in any loss to the Partnership or its Partners. The General Partner does not, in any way, guarantee the return of the Limited Partners' capital or a profit from the operations of the Partnership. The General Partner is not responsible to any Limited Partner because of a loss of that Partner's investment or a loss in operations, unless the loss has been occasioned by fraud, deceit, or a wrongful taking by the General Partner.

#### **Authority for Use of Nominees**

5.04. All Partners recognize that practical difficulties exist in doing business as a Limited Partnership, occasioned by third parties seeking to determine the capacity of the General Partner to act for and on behalf of the Partnership, or for other reasons. Therefore, the Limited Partners specifically authorize the General Partner to acquire all real and personal property, arrange all financing, enter contracts, and complete all other arrangements needed to effectuate the purpose of this Partnership, either in its own names or in the name of a nominee, without having to disclose the existence of this Partnership. If the General Partner decides to transact the Partnership business in his own name or in the name of a nominee, he shall place a written declaration of trust in the Partnership books and records that acknowledges the capacity in which the nominee acts and the name of the Partnership as the true or equitable owner.

#### **Removal of General Partner**

5.05. A General Partner may be removed by the affirmative vote of 67% in interest, not in number, of the Limited Partners who are not also General Partners. Written notice of a General Partner's removal must be served on that Partner by certified mail. The notice must set forth the day on which the removal is to be effective, and that date shall not be less than 30 days after the service of notice on the General Partner. If there is no other remaining General Partner, and the Limited Partners fail to elect a new General Partner pursuant to Paragraph 2.04 of this

Agreement within 30 days after the removal becomes effective, the Partnership will be dissolved and its business wound up and terminated. If the removal of a General Partner does not cause the dissolution of the Partnership, the General Partner's interest may be purchased pursuant to Paragraphs 9.04 or 9.05 of this Agreement. Otherwise, that removal will cause that Partner's interest in the Partnership to be converted to that of a Limited Partner. A former General Partner whose interest has been converted to that of a Limited Partner has the same rights and obligations under this Agreement as any other Limited Partner.

## **ARTICLE 6. BOOKS, RECORDS, AND ACCOUNTS**

### **Partnership Accounting Practices**

6.01. (a) The Partnership books shall be kept on a cash basis. The Partnership books shall be closed and balanced at the end of each fiscal year of the Partnership. The General Partner at his expense, will employ accounting and tax professionals.

(b) The fiscal year of the Partnership will be determined by the General Partner.

### **Maintenance of Records and Accounts**

6.02. At all times, the General Partner must maintain or cause to be maintained true and proper books, records, reports, and accounts in which shall be entered fully and accurately all transactions of the Partnership.

### **Required Records**

6.03. The General Partner must maintain at the principal executive office of the Partnership within California all of the following records:

(1) A current list of the full name and last known business or residence address of each Partner, set forth in alphabetical order, together with the contribution and the share in profits and losses of each Partner.

(2) A copy of the certificate of limited partnership and all certificates of amendment (or the restated certificate of limited partnership), together with executed copies of any powers of attorney pursuant to which any certificate has been executed.

(3) Copies of the Partnership's federal, state, and local income tax or information returns and reports, if any, for the six most recent taxable years.

(4) Copies of this Agreement and all amendments to this Agreement.

(5) Financial statements of the Partnership for the six most recent fiscal years.

(6) The Partnership's books and records for at least the current and past three fiscal years.

#### **Delivery of Records to Limited Partners**

6.04. On the request of any Limited Partner, or his or her agent or attorney, the General Partner will promptly deliver to that Partner, or to his or her agent or attorney, at the expense of the Partnership, a copy of any of the following:

- (1) The current list of each Partner's name, address, contribution, and share in profits and losses.
- (2) The certificate of limited partnership, as amended, and any powers of attorney pursuant to which any certificate was executed.
- (3) This Agreement, as amended.

#### **Access to Records by Limited Partners**

6.05. Each Limited Partner and/or each Limited Partner's duly authorized representative, attorney, or attorney-in-fact has the right, on reasonable request, to:

- (1) Inspect and copy, during normal business hours, any Partnership records the Partnership is required to maintain, pursuant to Paragraph 6.02 of this Agreement.
- (2) Obtain from the General Partner, promptly after becoming available, a copy of the Partnership's federal, state, and local income tax or information returns for each year.

#### **Financial Statements**

6.06. The General Partner will furnish financial statements and reports as follows:

- (1) The General Partner will issue an annual report containing a balance sheet as of the end of each fiscal year and an income statement and statement of changes in financial position for each fiscal year. The General Partner will send a copy of that annual report to each Partner not later than 120 days after the close of each fiscal year.
- (2) The General Partner will deliver or mail the following to the Limited Partners, within 30 days after receipt of the written request of Limited Partners representing at least 5 percent of the interests of all Limited Partners:
  - (a) An income statement of the Partnership for the initial three-month, six-month, or nine-month period of the current fiscal year that ends more than 30 days before the date of the request.

(b) A balance sheet of the Partnership as of the end of the initial three-month, six-month, or nine month period of the current fiscal year that ends more than 30 days before the date of the request.

(3) The General Partner will accompany any of these financial statements with either the report of an accountant engaged by the Partnership, or, if there is no report of an accountant, the certificate of a General Partner that the financial statements were prepared without audit from the books and records of the Partnership.

#### **Amendments to Agreement**

6.07. The General Partner will promptly furnish any Limited Partner who executed a power of attorney authorizing a General Partner to execute an amendment to this Agreement with a copy of any amendment to this Agreement executed by a General Partner pursuant to that power of attorney. As used in this Paragraph, the term "promptly" means within 10 business days after the execution of the amendment.

#### **Income Tax Data**

6.08. The General Partner will send to each Partner, within 60 days after the end of each taxable year, such information as is necessary for them to complete their federal and state income tax or information returns.

#### **Partnership Tax or Information Returns**

6.09. The General Partner will send to each Partner a copy of the Partnership's federal, state, and local income tax or information returns for each taxable year within 60 days after the end of each taxable year.

#### **Capital Accounts**

6.10. An individual capital account must be maintained for each General Partner and Limited Partner. A capital account consists of a Partner's contribution to the initial capital of the Partnership, any additional contributions to the Partnership capital made by the Partner pursuant to this Agreement, and any amounts transferred to the capital account from that Partner's income account pursuant to this Agreement.

#### **Income Accounts**

6.11. An individual income account will be maintained for each Partner. At the close of each accounting period, each Partner's share of the net profits or net losses of the Partnership will be credited or debited to, and that Partner's distributions received during each fiscal year will be deducted from, that Partner's income account and any resulting balance or deficit shall be transferred to or charged against that Partner's capital account.



### **Banking**

6.12. The General Partner will open and maintain a separate bank account in the name of the Partnership in which there shall be deposited all of the funds of the Partnership. No other funds may be deposited in the account. The funds in that account must be used solely for the business of the Partnership, and all withdrawals from that account are to be made only on checks signed by the General Partner.

## **ARTICLE 7. RIGHTS, POWERS, DUTIES, AND RESTRICTIONS OF PARTNERS**

### **General Partner Exclusive Right to Manage**

7.01. The General Partner has full and exclusive charge and control of the management, conduct, and operation of the Partnership in all matters and respects.

### **Devotion of Time by General Partner**

7.02. The General Partner must devote his entire care, attention, and business capacity to the affairs of the Partnership or such care, attention, and business capacity to the affairs of the Partnership as may be reasonably necessary. In this connection, the Partners acknowledge that any General Partner may be the Manager or General Partner of other partnerships and may continue to manage other partnerships, and may continue to engage in other related businesses whether or not competitive with the business of the Partnership.

### **Voting Rights of General Partner**

7.03. The General Partner has rights in the management and conduct of the Partnership business.

### **Restrictions on General Partner**

7.04. Except as otherwise expressly provided in this Agreement, each General Partner is subject to all the restrictions imposed on general partner by the California Revised Limited Partnership Act and the California Uniform Partnership Act and has all the rights and powers granted to general partner under those statutes.

### **Salaries of General Partner**

7.05. The General Partner shall be paid a flat fee annually as outlined in paragraph 4.02.2.

### **Voting Rights of Limited Partners**

7.06. (a) In addition to any other voting rights granted the Limited Partners under this Agreement, the Limited Partners have the right to vote on the following matters:

(1) The dissolution and winding up of the Partnership, pursuant to Paragraph 12.02;

(2) The merger of the Partnership or the sale, exchange, lease, mortgage, pledge, or other transfer of, or granting a security interest in, all or a substantial part of the assets of the Partnership other than in the ordinary course of its business;

(3) The incurrence of indebtedness by the Partnership other than in the ordinary course of its business;

(4) A change in the nature of the Partnership's business;

(5) Transactions in which the General Partner has an actual or potential conflict of interest either with the Limited Partners or the Partnership;

(6) The removal of a General Partner;

(7) An election to continue the business of the Partnership when a General Partner ceases to be a General Partner.

(b) All of the actions specified in Subparagraph (a) of this Agreement may be taken following the vote of 67% of the Limited Partners.

(c) The Limited Partners have the right to vote on the admission of an additional General Partner. Except as specifically provided in Paragraphs (d) and (e) of this Paragraph 7.06 or any other provision of this Agreement, the admission of an additional General Partner may be accomplished on the affirmative vote of 67% in interest of the Limited Partners or provide for vote by greater than majority in interest of limited partners.

(d) The Limited Partners have the right to vote on an election to continue the business of the Partnership and the admission of one or more General Partner after a General Partner ceases to be a General Partner under Corporations Code 15642 (b), (c), or (d) and there is no remaining General Partner. These actions may only be taken on 67% interests of the Limited Partners.

(e) The Limited Partners have the right to vote on any other matters related to the business of the Partnership that are made subject to the approval or disapproval of the Limited Partners by this Agreement.

### **Loans to the Partnership**

7.07. Nothing in this Agreement prevents a Partner from lending money to the Partnership on a promissory note or similar evidence of indebtedness for a reasonable rate of interest. Any Partner lending money to the Partnership has the same rights and risks regarding the loan as would any person or entity making the loan who was not a member of the Partnership.

### **Transaction of Business With Partnership**

7.08. Except as otherwise provided in this Agreement, a Partner may not transact other business with the Partnership.

### **Partners Engaging in Other Business**

7.09. Except as otherwise provided in Paragraph 7.02 of this Agreement, any of the Partners may engage in or possess an interest in other business ventures of every nature and description independently or with others. Neither the Partnership nor the Partners have any right by virtue of this Agreement in and to any such independent ventures or to the income or profits derived from them.

## **ARTICLE 8. PARTNERSHIP MEETINGS**

### **Call and Place of Meetings**

8.01. (a) Meetings of the Partners will be held at the Principal Executive Office of the Partnership or at any place selected by the person or persons calling the meeting or specify place of meeting within or without California at the call and pursuant to the written request of the General Partner, or of Limited Partners representing more than 67 percent of the interests of Limited Partners, for consideration of any of the matters as to which Limited Partners are entitled to vote pursuant to Paragraph 7.06 of this Agreement.

(b) In addition, the Partners may participate in a meeting through the use of conference telephones or similar communications equipment providing that all Partners participating in the meeting can hear one another. Participation in this type of telephone meeting constitutes presence in person at the meeting.

### **Notice of Meeting**

8.02. Immediately on receipt of a written request stating that the Partner or Partners request a meeting on a specific date which date shall not be less than 10 nor more than 60 days after the receipt of the request by the General Partner, the General Partner must give notice to all Partners entitled to vote, as determined in accordance with Paragraph 13.01 of this Agreement. Valid notice may not be given less than 10 nor more than 60 days before the date of the meeting; the notice must state the place, date, and hour of the meeting and the general nature of the business to be transacted. No business other than the business stated in the notice

of the meeting may be transacted at the meeting. Notice must be given by mail addressed to each Partner entitled to vote at the meeting at the address for the Partner appearing on the books of the Partnership.

#### **Quorum**

8.03. At any duly held or called meeting of Partners, a majority in interest or other percentage of the Limited Partners represented in person or by proxy or in person constitutes a quorum. The Partners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Partners to leave less than a quorum, if any action taken, other than adjournment, is approved by the requisite percentage of interests of Limited Partners.

#### **Adjournment of Meetings**

8.04. A Partnership meeting at which a quorum is present may be adjourned to another time or place and any business that might have been transacted at the original meeting may be transacted at the adjourned meeting. If a quorum is not present at an original meeting, that meeting may be adjourned by the vote of a majority of the interests represented either in person or by proxy. Notice of the adjourned meeting need not be given to Partners entitled to notice if the time and place of the adjourned meeting are announced at the meeting at which the adjournment is taken, unless (1) the adjournment is for more than 45 days or (2) after the adjournment, a new record date is fixed for the adjourned meeting, in which case notice of the adjourned meeting shall be given to each Partner of record entitled to vote at the adjourned meeting.

#### **Meetings Not Duly Called, Noticed, or Held**

8.05. The transactions of any meeting of Partners, however called and noticed, and wherever held, shall be as valid as though consummated at a meeting duly held after regular call and notice, if a quorum is present at that meeting, either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs either a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting.

#### **Waiver of Notice**

8.06. Attendance of a Partner at a meeting constitutes waiver of notice, except when that Partner objects, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be described in the notice of the meeting and not so included, if the objection is expressly made at the meeting. Any partner approval at a meeting (other than unanimous approval by Limited Partners of an election to continue the business of the Partnership after the retirement, death, or adjudication of incompetence of a General Partner) is valid only if the general nature of the proposal is stated in any written waiver of notice.

### Consent to Action Without Meeting

8.07. Any action that may be taken at any meeting of the Partners may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by Partners having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all Partners entitled to vote on the matter were present and voted. If the Limited Partners are requested to consent to a matter without a meeting, each Partner shall be given notice of the matter to be voted on in the manner described in Paragraph 8.02. If any General Partner, or Limited Partners representing more than 10 percent of the interests of the Limited Partners, requests a meeting for the purpose of discussing or voting on the matter so noticed, notice of a meeting will be given pursuant to Paragraph 8.02 and no action may be taken until the meeting is held. Unless delayed by a request for and the conduct of a meeting, any action taken without a meeting is effective 15 days after the required minimum number of voters have signed consents to action without a meeting; however, the action is effective immediately if all General Partners and Limited Partners representing at least 90 percent of the interests of the Limited Partners sign consents to the action without a meeting.

### Proxies

8.08. (a) Every Partner entitled to vote may authorize another person or persons to act by proxy with regard to that Partner's interest in the Partnership.

(b) Any proxy purporting to have been executed in accordance with this Paragraph is presumptively valid.

(c) No Proxy is valid after the expiration of 11 months from the date of the proxy unless otherwise provided in the proxy. Subject to Subparagraphs (f) and (g) of this Paragraph, every proxy continues in full force and effect until revoked by the person executing it. The dates contained on the proxy forms presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(d) A proxy is not revoked by the death or incapacity of the person executing it, unless (except as provided in Subparagraph (f) of this Paragraph), before the vote is counted, written notice of the death or incapacity of the maker is received by the Partnership.

(e) Revocation of a proxy is effected by a writing delivered to the Partnership stating that the proxy is revoked or by a subsequent proxy executed by the Partner who executed the original proxy or, as to any meeting, by the attendance and exercise of the right to vote at that meeting by the Partner who executed the proxy.

(f) A proxy that states that it is irrevocable is irrevocable for the period specified in the proxy when it is held by any creditor or creditors of the Partnership or the Partner who extended or continued credit to the Partnership or the Partner in consideration of the proxy if the proxy states that it was given in consideration of that credit and also states the name of the person extending or continuing credit. In addition, a proxy may be made irrevocable

(notwithstanding Subparagraph (d) of this Paragraph) if it is given to secure the performance of a duty or to protect a title, either legal or equitable, until the happening of events that, by its terms, discharge the obligations secured by it.

(g) Notwithstanding the period of irrevocability specified in the proxy as provided in Subparagraph (f) of this Paragraph, the proxy becomes revocable when the debt of the Partnership or Partner is paid.

(h) A proxy may be revoked, notwithstanding a provision making it irrevocable, by the assignment of the interest in the Partnership of the Partner who executed the proxy to an assignee without knowledge of the existence of the proxy and the admission of that assignee to the Partnership as a Partner.

(i) The General Partner may, in advance of any Partnership meeting, prescribe additional regulations concerning the manner of execution and filing of proxies and their validation.

## ARTICLE 9. TRANSFER OF PARTNERSHIP INTERESTS

### Conditions for Transfer

9.01. A Limited Partner may sell, assign, transfer, encumber, or otherwise dispose of an interest in the Partnership subject to the provisions of this Article 9.

### Permitted Transfers

9.02. (a) If a Limited Partner receives a bona fide offer for the purchase of all or a part of that Limited Partner's interest in the Partnership, that Limited Partner must either refuse that offer or give the General Partner, who will immediately notify all other limited partners by written notice setting out full details of that offer. The notice must specify, among other things, the name of the offer or, the percentage of interest in the Partnership covered by the offer, the terms of payment, whether for cash or credit and, if on credit, the time and interest rate, as well as all other consideration being received or paid in connection with the proposed transaction, and all other terms, conditions, and details of the offer.

(b) On receipt of the notice with regard to that offer, the General Partner shall have the exclusive right and option, exercisable at any time during a period of 30 days from the date of the notice, to purchase the interest in the Partnership covered by the offer in question at the same price and on the same terms and conditions of the offer as set out in the notice. If the General Partner decides to exercise the option, they must give written notice to that effect to the Limited Partner desiring to sell, and the sale and purchase must be consummated within 30 days. If the General Partner does not elect to exercise its option or waive their rights in writing, the selling Limited Partner must be so notified in writing and, subject to any prohibitions or restrictions on transfer imposed by the General Partner for purposes of compliance with applicable securities law, is free to sell the interest in the Partnership covered by the offer, if the sale is consummated within 90 days, or the interest once again becomes subject to the restrictions of this Article. The sale, if permitted, must be made strictly on the terms and

conditions and to the person described in the required notice.

(c) If the General Partner fails to purchase all of the portion of the selling Limited Partner's interest in the Partnership specified in the notice to them provided in this Paragraph, the remaining Limited Partners shall have an additional 30 days to serve on the General Partner notice in writing of that Partner's intention to purchase on the terms and conditions set forth in the selling Partner's notice that portion of the selling Partner's interest as the offering Partner's interest in the profits or capital of the Partnership bears to the total interest of all profits or capital of the Partnership. Provided, however, if any Limited Partner fails to purchase a proportionate share of the interest offered by the selling Partner, notice of that fact shall be given to each Limited Partner by the General Partner, and the interest may be purchased by any one or more of the other Limited Partners.

(d) Any assignment made to anyone, not already a Partner, is effective only to give the assignee the right to receive distributions, and allocations of income, gain, loss, deduction, credit, or similar items to which the assignor would otherwise be entitled, does not relieve the assignor from liability under any agreement to make additional contributions to capital; does not relieve the assignor from liability under the provisions of this Agreement; and does not give the assignee the right to become a substituted Limited Partner. Neither the General Partner nor the Partnership are required to determine the tax consequences to a Limited Partner or his or her assignee, arising from the assignment of a Limited Partnership interest. The Partnership will continue with the same basis and capital account for the assignee as was attributable to the former owner who assigned the Limited Partnership interest. The Partnership interest of the General Partner cannot be voluntarily assigned or transferred except pursuant to Paragraph 9.04 or when the transfer occurs by operation of law.

#### **Death, Bankruptcy, or Incompetence of Limited Partner**

9.03. If any Limited Partner dies or is adjudged incompetent or bankrupt by any court of competent jurisdiction, the remaining General and Limited Partners have an option to purchase the Partnership interest of that Limited Partner by paying to the person legally entitled to that interest, within 90 days after the date of death or the adjudication of incompetency or bankruptcy, the fair market value of that Partnership interest. This 60-day period may be extended to 30 days after a MAI appraisal is received provided the appraiser is contracted for within 30 days. Each remaining General and Limited Partner has the right to purchase that proportionate part of the deceased, incompetent, or bankrupt Limited Partner's interest in the Partnership as the remaining Partner's interest in the profits of the Partnership bears to the total interest of all profits the Partnership. Provided, however, if any remaining General or Limited Partner fails to purchase a proportionate share of the interest offered by the selling Partner, notice of that fact must be given to each General and Limited Partner, and it may be purchased by any one or more of the remaining General or Limited Partners.

#### **Sale to New General Partner**

9.04. When any General Partner ceases to be a General Partner, pursuant to Corporations Code Section 15642, the interest of the withdrawing General Partner may be

purchased by a new General Partner during the option period set forth in Paragraph 9.04, on admission of the new Partner to the Partnership and on payment of the value of that interest determined as provided in Paragraph 9.06.

#### **Duties of Remaining Purchasing General Partner**

9.05. On the purchase and sale of a Withdrawing General Partner's interest, the new General Partner will assume all obligations of the Partnership and shall hold the withdrawing General Partner, the personal representative and estate of the withdrawing General Partner, and the property of the withdrawing General Partner free and harmless from all liability for those obligations. Further, the remaining General Partners, at their own expense, must immediately amend the Certificate of Limited Partnership as required by the California Revised Limited Partnership Act, and cause to be prepared, executed, acknowledged, filed, served, and published all other notices required by law to protect the withdrawing General Partner or the personal representative and estate of the withdrawing General Partner from all liability for the future obligations of the Partnership business.

#### **Sale of Partnership by General Partner**

9.06. At any time during the term of the Partnership, the General Partner may sell the real estate holdings of the partnership without further approval of the limited partners if such sale will result in a 20 percent non-compounded annual return to the Limited Partners. Any sale not meeting this amount must be approved by at least 50% of the Limited Partners.

#### **Distribution Upon Sale**

9.07. Net proceeds from the sale shall be distributed (a) first to the Limited Partners as specified in Exhibit A attached hereto (b) the balance of the distributions will be distributed 50% to the Limited Partners and 50% to the General Partner as more fully specified in Exhibit A.

### **ARTICLE 10. LIABILITIES OF PARTNERS**

#### **Liability of General Partner**

10.01. Except as otherwise provided in this Agreement, the liability of the General Partner arising from the conduct of the business affairs or operations of the Partnership or for the debts of the Partnership is unrestricted.

#### **Liability of Limited Partners**

10.02. The liability of the Limited Partners is restricted and limited to the amount of the actual capital contributions that each Limited Partner makes or agrees to make to the Partnership.



## ARTICLE 11. PROHIBITED TRANSACTIONS

### Specified Acts

11.01. During the time of the organization or continuance of this Partnership, neither the General nor Limited Partners may take, and the Partners specifically promise not to do, any of the following actions:

- (1) Use the name of the Partnership (or any substantially similar name) or any trademark or trade name adopted by the Partnership, except in the ordinary course of the Partnership business.
- (2) Disclose to any non-partner any of the Partnership business practices, trade secrets, or any other information not generally known to the business community.
- (3) Do any other act or deed with the intention of harming the business operations of the Partnership.
- (4) Do any act contrary to this Agreement, except with the prior express written approval of all Partners.
- (5) Do any act that would make it impossible to carry on the intended or ordinary business of the Partnership.
- (6) Confess a judgment against the Partnership.
- (7) Abandon or transfer or dispose of Partnership property, real or personal.
- (8) Admit another person or entity as a General or Limited Partner.

### Use all Partnership Assets

11.02. The General Partner may not use, and specifically promises not to use, directly or indirectly, the assets of this Partnership for any purpose other than conducting the business of the Partnership, for the full and exclusive benefit of all its Partners.

## ARTICLE 12. DISSOLUTION OF THE PARTNERSHIP

### Dissolution and Winding Up

12.01. The Partnership will be dissolved, and its affairs will be wound up on the expiration of the term provided for the existence of the Partnership in Paragraph 1.05 or on the occurrence of any of the events specified in Paragraphs 12.02 through 12.05, whichever is the first to occur.

#### **Dissolution Upon Consent**

12.02. The Partnership will be dissolved on any date specified in a consent to dissolution signed by 67 percent of the General Partners and by a majority in interest or specify number or percentage in interest of the Limited Partners.

#### **Dissolution Upon Loss of a General Partner**

12.03. The Partnership will dissolve and its affairs will be wound up if a General Partner ceases to be a General Partner.

#### **Dissolution Upon Sale or Disposition of Assets**

12.04. The Partnership will be dissolved and its affairs wound up when its assets are sold or otherwise disposed of and the only property of the Partnership consists of cash available for distribution to the Partners.

#### **Dissolution Upon Judicial Decree**

12.05. The Partnership will be dissolved and its affairs wound up when required by a decree of judicial dissolution entered under Section 15682 of the California Corporations Code.

#### **Responsibility for Winding Up**

12.06. (a) On dissolution of the Partnership, the affairs of the Partnership will be wound up by General Partner.

(b) If no General Partner is available to wind up the affairs of the Partnership, or one or more Limited Partners may wind up the affairs of the Partnership.

(c) If a Limited Partner is authorized to wind up the affairs of the Partnership, the Certificate of Limited Partnership must be amended to add the name and the business, residence, or mailing address of each Limited Partner winding up the Partnership's affairs. Any Limited Partner winding up the Partnership's affairs may not be subject to liability as a General Partner based on this amendment. Any remaining General Partners not winding up the Partnership's affairs need not execute the Certificate of Amendment.

(d) If one or more Limited Partners wind up the affairs of the Partnership, those Limited Partners are entitled to reasonable compensation.

#### **Liquidation and Distribution**

12.07. The person or persons responsible for winding up the affairs of the Partnership pursuant to Paragraph 12.06 will take full account of the Partnership assets and liabilities, liquidating the assets of the Partnership as promptly as is consistent with obtaining the fair value of those assets, and applying and distributing the proceeds in the following order:

(1) To creditors of the Partnership, including Partners who are creditors to the extent permitted by law, in satisfaction of liabilities of the Partnership other than liabilities for any of the following:

(a) Distributions owing to Partners before their withdrawal from the Partnership and before the dissolution and winding up of the Partnership.

(b) Distributions owing to Partners on their withdrawal from the Partnership.

(2) Except as otherwise provided in this Agreement, to Partners and former Partners in satisfaction of liabilities for distributions owing to them before their withdrawal from the Partnership and before dissolution and winding up of the Partnership and on their withdrawal from the Partnership.

(3) To the Partners in accordance with the provisions set forth in this Agreement for the distribution of the assets of the Partnership.

#### **Filing Certificate of Dissolution**

12.08. On dissolution of the Partnership, 67 percent of the interests of Limited Partners representing a majority in interest of the Partners, must execute and file in the office of the Secretary of State a certificate of dissolution.

#### **Cancellation of Certificate of Limited Partnership**

12.09. On completion of the winding up of the Partnership's affairs, 67 percent of the General Partners must execute and file in the office of the Secretary of State a certificate of cancellation of the Certificate of Limited Partnership. If the Limited Partners are winding up the Partnership's affairs pursuant to Paragraph 12.06, the person authorized by a majority in interest of the Limited Partners must execute and file the certificate of cancellation of the Certificate of Limited Partnership.

### **ARTICLE 13. RECORD DATES**

#### **Setting Record Date for Meetings**

13.01. The record date for determining the Partners entitled to notice of meetings, the right to vote at any meeting, or the right to take any other lawful action with regard to a meeting or the conduct of a vote by the Partners will be the date set by the General Partners or Limited Partners representing more than 67 percent of the Limited Partners' interests or both; however that date may not be more than 60 nor less than 10 days before the date of the meeting nor more than 60 days before any other action.

### **Setting Record Date for Distributions**

13.02. The record date for determining the Partners entitled to any distribution or the right to take any other lawful action will be 10 days before that date; however that date may not be more than 60 days before any such action.

### **Automatic Record Date**

13.03. In the absence of any action setting a record date the record date will be determined as follows:

(1) The record date for determining the Partners entitled to notice of, or to vote at, meetings will be at the close of business on the business day preceding the day on which notice is given, or, if notice is waived, at the close of business on business day preceding the day on which meeting is held.

(2) The record date for determining Partners entitled to give consent to Partnership action in writing without a meeting is the day on which the first written consent is given.

(3) The record date for determining Partners for any other purpose is at the close of business on the day on which the General Partners adopt the record date or the 60<sup>th</sup> day before the date of action relating to that other purpose, whichever is later.

(4) The record date for adjourned meetings is the record date set in determining the Partners entitled to notice of, or to vote at, the original meeting; however, the Partners who called that meeting may fix a new record date for the adjourned meeting and must fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.

## **ARTICLE 14. MISCELLANEOUS PROVISIONS**

### **Entire Agreement**

14.01. This Agreement contains the entire understanding among the Partners and supersedes any prior written or oral agreements between them regarding the subject matter contained in this Agreement. There are no representations, agreements, arrangements, or understandings, oral or written, between and among the Partners relating to the subject matter of this Agreement that are not fully expressed in this Agreement.

### **Amendments**

14.02. (a) Subject to Subparagraph (b) of this Paragraph 14.02, the provisions of this Agreement may be amended by 67 percent of the vote of a majority in interest of the Limited Partners. Any amendment of this Agreement must be in writing, dated, and executed by all Partners. If any conflict arises between the provisions of any amendment and the original

Agreement as previously amended, the most recent provisions control.

(b) The provisions of this Agreement governing the right of the Limited Partners to vote on the admission of a General Partner when there is a remaining or surviving General Partner, and the right of the Limited Partners to vote on the admission of a General Partner or an election to continue the business of the Partnership after a General Partner ceases to be a General Partner other than by removal and there is no remaining or surviving General Partner, may not be amended.

#### **Attorneys' Fees**

14.03. If any action at law or in equity, including an action for declaratory or injunctive relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party is entitled to reasonable attorneys' fees.

#### **Governing Law**

14.04. All questions with regard to the construction of this Agreement and the rights and liabilities of the parties will be governed by the laws of the State of California.

#### **Notices**

14.05. All notices must be in writing and sent by first class United States mail. All notices to the Partners must be sent to them at the addresses shown for them in the records of the Partnership. All notices to the Partnership must be sent to it at its principal executive office in California. Notices will be deemed to have been delivered when deposited in the United States mails.

#### **Successors**

14.06. Subject to the restrictions against assignment of limited partnership interests contained in this Agreement, this Agreement inures to the benefit of and is binding on the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the parties.

#### **Severability**

14.07. If any provisions of this Agreement are declared by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions continue in full force and effect.

#### **Execution by Spouses**

14.08. This Agreement is executed by the Partners and by the spouses of Partners when those spouses are not themselves Partners. The signature of a spouse who is not a Partner may not be construed as making that spouse a Partner or as imposing on that spouse any responsibility for any Partnership obligation but merely as recording that spouse's consent to the

execution by his or her spouse of this Agreement and to all of its terms and conditions to the extent that community property interests, if any, may be involved.

#### **Election of Adjusted Basis**

14.09. In the event of a transfer of all or part of the interest of a Limited Partner, the General Partners may elect, on behalf of the Partnership, to adjust the basis of the Partnership property pursuant to Section 754 of the Internal Revenue Code. All other elections required or permitted to be made by the Partnership under the Internal Revenue Code must be made by the General Partners in such manner as will, in their opinion, be most advantageous to a majority in interest of the Limited Partners.

#### **Counterparts**

14.10. This Agreement may be executed in several counterparts and all counterparts so executed constitute one agreement that is binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or the same counterpart.

#### **Headings**

14.11. The headings preceding the paragraphs of this Agreement are for convenience of reference only, are not a part of this Agreement, and are to be disregarded in the interpretation of any portion of this Agreement.

#### **Other Instruments**

14.12. The parties to this Agreement covenant and agree that they shall execute all other instruments and documents that are or may become necessary or convenient to effectuate and carry out the Partnership created by this Agreement.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, at \_\_\_\_\_, California.

**GENERAL PARTNER**

\_\_\_\_\_  
Copeland Realty, Inc.  
Donald E. Copeland, President

**LIMITED PARTNERS**

\_\_\_\_\_  
Dorothy Ziilch

\_\_\_\_\_  
W.W. Eure

\_\_\_\_\_  
Lillian Franklin

\_\_\_\_\_  
Melvyn Ross

\_\_\_\_\_  
Joseph Dotan

\_\_\_\_\_  
Charles Schwab FBO Janet Ihde

\_\_\_\_\_  
Neal Bricker

\_\_\_\_\_  
Sandra Hayes

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, at \_\_\_\_\_, California.

**GENERAL PARTNER**

\_\_\_\_\_  
Copeland Realty, Inc.  
Donald E. Copeland, President


**LIMITED PARTNERS**

\_\_\_\_\_  
Janet Ihde

\_\_\_\_\_  
Lillian Franklin

\_\_\_\_\_  
Joseph Dotan

\_\_\_\_\_  
Dorothy Ziilch

  
\_\_\_\_\_  
Melvin Ross

\_\_\_\_\_  
Neil Bricker

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Wayland Eure

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Alice Roth

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Sandra Hayes

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Marjorie Hatfield



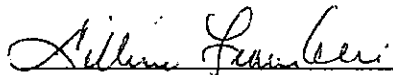
Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, at \_\_\_\_\_, California.

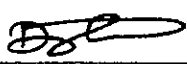
**GENERAL PARTNER**

\_\_\_\_\_  
Copeland Realty, Inc.  
Donald E. Copeland, President

**LIMITED PARTNERS**

\_\_\_\_\_  
Janet Ihde

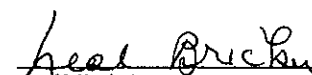
  
\_\_\_\_\_  
Lillian Franklin



\_\_\_\_\_  
Joseph Dotan

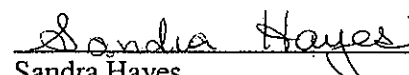
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Dorothy Ziilch

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Melvin Ross

  
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Neil Bricker  
*neil*

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Wayland Eure

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Sandra Hayes

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Marjorie Hatfield

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# EXHIBIT 7



RECORDING REQUESTED BY  
First American Title Company

AND WHEN RECORDED MAIL TO:  
Copeland Realty, Inc.  
25809 Business Center Dr., #B  
Redlands, CA 92374

FIRST AMERICAN TITLE COMPANY

2030837-KL

Sacramento County Recording  
Craig A Kramer, Clerk/Recorder  
BOOK 20051122 PAGE 1184

Check Number 5700  
Tuesday, NOV 22, 2005 12:14:12 PM  
Ttl Pd \$18.00 Nbr-0003991420

001-Unincorp. DTT PAID

SAH/45/1-4

Space Above This Line for Recorder's Use Only

A.P.N.: 072-0340-101-0000

File No.: 3404-2030837 (KL)

### GRANT DEED

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX \$Undisclosed R & T 11932 & 11933; CITY TRANSFER TAX \$0.00;  
SURVEY MONUMENT FEE \$0.00

- computed on the consideration or full value of property conveyed, OR
- computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
- unincorporated area;  City of Sacramento, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Mark L. Cutler, Trustee of the Mark L. Cutler Family Trust dated October 1, 1985 and Rancho Cordova, L.C., a Utah limited liability company

hereby GRANTS to Copeland Realty, Inc., a California Corporation

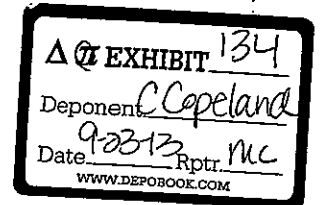
the following described property in the unincorporated area of , County of Sacramento, State of California:

**PARCEL NO. 1:**

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, BEING PARCEL 1 OF THAT CERTAIN PARCEL MAP RECORDED IN BOOK 102 OF PARCEL MAPS, AT PAGE 28, RECORDS OF SAID COUNTY.

EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

Mail Tax Statements To: SAME AS ABOVE



TRI 0358

A.P.N.: 072-0340-101-0000

Grant Deed - continued

File No.:3404-2030837 (KL)

Date: 11/08/2005

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 1, BEING A POINT ON THE CENTERLINE OF SUNRISE BOULEVARD; THENCE FROM SAID POINT OF BEGINNING ALONG THE NORTHERLY LINE OF SAID PARCEL 1, NORTH 88°07'00" EAST 659.00 FEET; THENCE ENTERING SAID PARCEL 1, SOUTH 01°53'00" EAST 152.50 FEET MORE OR LESS TO A POINT LOCATED 5.00 NORTHERLY OF THE FACE OF EXISTING BUILDING; THENCE PARALLEL TO THE FACE OF SAID BUILDING NORTH 88°07'00" EAST 231.00 FEET TO THE NORTHERLY PROLONGATION OF THE EASTERLY EXISTING BUILDING FACE; THENCE ALONG SAID PROLONGATION, EASTERLY FACE OF SAID EXISTING BUILDING AND THE SOUTHERLY PROLONGATION THEREOF, SOUTH 01°53'00" EAST 223.60 FEET TO A LINE THAT IS 5.00 FEET SOUTHERLY AND PARALLEL WITH THE SOUTHERLY LINE OF SAID EXISTING BUILDING; THENCE ALONG SAID PARALLEL LINE THE FOLLOWING FIVE (5) COURSES: (1) SOUTH 88°07'00" WEST 291.50 FEET; (2) THENCE SOUTH 01°53'00" EAST 7.90 FEET; (3) THENCE SOUTH 88°07'00" WEST 41.25 FEET; (4) THENCE NORTH 01°53'00" WEST 7.90 FEET; (5) THENCE SOUTH 88°07'00" WEST 174.25 FEET; THENCE SOUTH 01°53'00" EAST 123.90 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID SOUTHERLY LINE, SOUTH 88°07'00" WEST 383.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 1, ALSO BEING THE CENTERLINE OF SUNRISE BOULEVARD, NORTH 01°53'00" WEST 500.00 FEET TO THE POINT OF BEGINNING, AS DESCRIBED IN THAT CERTIFICATE OF COMPLIANCE RECORDED IN BOOK 990122, PAGE 642, OFFICIAL RECORDS.

**PARCEL NO. 2:**

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AND PUBLIC UTILITIES OVER AND ACROSS AREAS A, B, C AND D AS SHOWN AND DELINEATED ON PARCELS 3, 4, 5 AND 6, AS SHOWN ON THAT CERTAIN "PARCEL MAP" RECORDED IN BOOK 102 OF PARCEL MAPS, AT PAGE 28, RECORDS OF SAID COUNTY.

**PARCEL NO. 3:**

TOGETHER WITH AN EASEMENT FOR INSTALLING, MAINTAINING AND REPAIRING A PRIVATE SEWER LINE OVER AND ACROSS THE EASTERLY PORTION OF PARCEL 3, AS SHOWN ON THE PARCEL MAP IN BOOK 102 OF PARCEL MAPS, AT PAGE 28, RECORDS OF SAID COUNTY.

Dated: 11/08/2005

A.P.N.: 072-0340-101-0000

Grant Deed - continued

File No.: 3404-2030837 (KL)

Date: 11/08/2005

Rancho Cordova, L.C., an Utah Limited Liability Company

The Mark L. Cutler Family Trust

Robert H. Anderson  
By: Robert H. Anderson, Manager

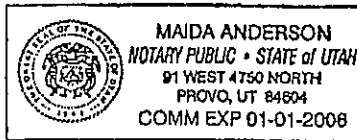
\_\_\_\_\_  
Mark L. Cutler, Trustee

Robert Michael Anderson  
By: Robert Michael Anderson, Manager

STATE OF Utah )SS  
COUNTY OF Utah )

On November 10, 2005, before  
me, Maida Anderson, Notary Public, personally appeared  
Robert M. Anderson and Robert H. Anderson, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Maida Anderson

My Commission Expires: 1-1-2006 This area for official notarial seal

Notary Name: Maida Anderson Notary Phone: 801-225-9605  
Notary Registration Number: \_\_\_\_\_ County of Principal Place of Business: Utah

A.P.N.: 072-0340-101-0000

Grant Deed - continued

File No.: 3404-2030837 (KL)

Date: 11/08/2005

Rancho Cordova, L.C., an Utah Limited Liability Company

The Mark L. Cutler Family Trust

Mark L. Cutler  
Mark L. Cutler, Trustee

By: Robert H. Anderson, Manager

By: Robert Michael Anderson, Manager

STATE OF CA )SS  
COUNTY OF Contra Costa )

On 11-19-05, before  
me, BERT COKER, Notary Public, personally appeared  
MARK L. CUTLER, TRUSTEE, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Bert Coker



My Commission Expires: 5/11/2008

*This area for official notarial seal*

Notary Name: Bert Coker

Notary Phone: 925 245-7200

Notary Registration Number: 1489009

County of Principal Place of Business: CONTRA COSTA

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# EXHIBIT 8

9:40 PM

Copeland Properties Three

10/05/13

Account QuickReport

Accrual Basis

All Transactions

Type	Date	Num	Name	Memo	Split	Amount	Balance
<b>2020 - Note Payable- CRI</b>							
Deposit	7/31/2005		Deposit	Loan to cover Loan Pay	1100 · Travis CU- Checking	46,000.00	46,000.00
Deposit	8/31/2005		Deposit	Deposit	1100 · Travis CU- Checking	50,000.00	96,000.00
Deposit	9/30/2005		Deposit	Deposit	1100 · Travis CU- Checking	50,000.00	146,000.00
Deposit	11/1/2005		Deposit	Mortgage Loan	1100 · Travis CU- Checking	50,000.00	196,000.00
Deposit	12/29/2005		Deposit	Deposit	1100 · Travis CU- Checking	50,000.00	246,000.00
General Journal	12/31/2005	AJE07		TO RECORD WF LEASE PMTS MADE BY CRI	2010 · Note Payable-Wells Fargo Le...	17,017.09	263,017.09
General Journal	12/31/2005	AJE08		TO RECLASSIFY PMT TO D. ZILCH MADE BY CRI	2040 · Note Payable-TCG Trust	22,798.65	285,815.74
General Journal	12/31/2005	AJE12		TO RECLASSIFY SOURCE OF FUNDS	2040 · Note Payable-TCG Trust	-50,000.00	235,815.74
General Journal	1/1/2006	GJ0101		TO NET RECEIVABLE TO PAYABLE	1420 · Receivable -CRI	-9,606.35	226,209.39
Deposit	2/1/2006		Deposit	Deposit	1100 · Travis CU- Checking	50,000.00	276,209.39
Check	3/13/2006	1344	Copeland Realty, Inc	Reimb. for GM Building maint.	1100 · Travis CU- Checking	-3,485.00	272,724.39
Check	5/11/2006	1383	Copeland Realty, Inc	Partial Note Payable	1100 · Travis CU- Checking	-30,000.00	242,724.39
Check	5/11/2006	3301	Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	-30,000.00	212,724.39
Deposit	6/1/2006		Deposit	To Cover Mortgage until FEMA payment recvd	1110 · Redlands Centennial Bank	32,000.00	244,724.39
Check	6/16/2006	3315	Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	-30,000.00	214,724.39
General Journal	6/30/2006	GJ0601		TO RECORD EXPENSES PAID BY CRI	-SPLIT-	21,392.91	236,117.30
Check	7/12/2006	3325	Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	-20,000.00	216,117.30
Check	8/30/2006	3353	Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	-40,000.00	176,117.30
Deposit	12/12/2006		Deposit	Advance to cover account(original loan by TCG)	1110 · Redlands Centennial Bank	20,000.00	196,117.30
General Journal	12/31/2006	GJ1202		TO RECORD POSTAGE FEES PAID BY CRI	8400 · Office	44.98	196,162.28
General Journal	12/31/2006	GJ1203		TO RECLASSIFY CK #3391 AS CRI ADVANCE	8200 · Interest Expense	-1,433.33	194,728.95
Deposit	1/3/2007		Copeland Realty, Inc	N/P CRI	1110 · Redlands Centennial Bank	42,000.00	236,728.95
Deposit	1/3/2007		Copeland Realty, Inc	N/P CRI	1110 · Redlands Centennial Bank	6,000.00	242,728.95
Deposit	1/16/2007		Copeland Realty, Inc	N/P CRI	1110 · Redlands Centennial Bank	6,425.00	249,153.95
Deposit	1/29/2007		Copeland Realty, Inc	On-line transfer to cover mtg	1110 · Redlands Centennial Bank	41,782.93	290,936.88
General Journal	1/31/2007	GJ104		TO RECORD FEDERAL EXPRESS BILL PAID BY CRI	8400 · Office	42.87	290,979.75
Check	2/2/2007		Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	0.00	290,979.75
Deposit	2/2/2007		Copeland Realty, Inc	N/P CRI	1110 · Redlands Centennial Bank	6,700.00	297,679.75
Check	2/7/2007	3418	Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	-194,728.95	102,950.80
Check	4/2/2007		Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	-35,000.00	67,950.80
Check	4/9/2007		Copeland Realty, Inc	Partial Pay on Note Payable	1110 · Redlands Centennial Bank	-16,000.00	51,950.80
General Journal	6/11/2007	GJ601		TO RECORD CFI#2 INTEREST PAID BY CRI	8200.2 · Interest Expense - CFI#2	1,269.00	53,219.80
Check	7/19/2007	1395	Copeland Realty, Inc	Partial Note Payable	1100 · Travis CU- Checking	-100.00	53,119.80
General Journal	8/15/2007	GJ815		TO RECORD INTEREST PAID BY CRI TO CRFI#2	8200.2 · Interest Expense - CFI#2	1,410.00	54,529.80
General Journal	8/28/2007	GJ816		Refund - Loan payoff deposited into CWMRE	2000 · Note Payable-Business Partn...	-12.75	54,517.05
General Journal	9/6/2007	GJ906		CFI#2 INTEREST PAID BY CWMRE	8200.2 · Interest Expense - CFI#2	705.00	55,222.05
General Journal	9/14/2007	GJ914		CLOSING UTILITY BILL PAID BY CWMRE	7202 · Water/Sewer	407.31	55,629.36
General Journal	10/5/2007	GJ1005		TO RECORD CFI#2 INTEREST PAID BY CWMRE	8200.2 · Interest Expense - CFI#2	705.00	56,334.36
General Journal	12/31/2007	GJ1201		VOID: To record interest paid by CRI	8200.2 · Interest Expense - CFI#2	0.00	56,334.36
General Journal	12/31/2007	GJ1202	Copeland Fixed In...	To record Oct & Nov Interest Paid by CRI	8200.2 · Interest Expense - CFI#2	1,410.00	57,744.36
General Journal	12/31/2007	JE3		To record balance of land purchase	4700.2 · Cost of Real Property Sold	314,965.56	372,709.92
General Journal	12/31/2007	JE5		To transfer assets and liabilities to CRI for closure	1401 · Note Receivable-CP9	-372,709.92	0.00
Total 2020 - Note Payable- CRI						0.00	0.00
<b>TOTAL</b>						<b>0.00</b>	<b>0.00</b>



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# EXHIBIT 9

COPELAND REALTY INC.

#1268

Donald E. Copeland  
Broker

A Real Estate Investment Corporation

Lic. 01366827

May 3, 2005

RE: Copeland Properties Three L.P.

To: All Limited Partners

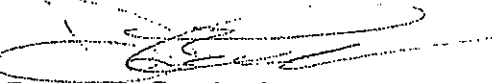
In November IRS gave notice of its intention to leave our building May 3, 2005 and they have done so. This check is the last distribution that will be available for the foreseeable future. In December of 2004 we contracted with CBRE in Sacramento, which is a large commercial leasing firm, to help us in our search for a replacement tenant. They have shown the property several times and are actively marketing it.

As General Partners our pledge to you was for us not to profit unless the Limited Partners received at least 6% return on their investment each year. Exhibit A shows the distributions paid out to each Limited Partner, including this month's check, have provided a 6% return through November 25, 2005. It is our intention to suspend monthly distributions checks until that date. If we do not have a tenant(s) in place by then we will offer to purchase your Limited Partnership interest in accordance with Exhibit B. There will not be any requests for Limited Partners to make a payment until after November 25, 2005.

Copeland Realty will make a subordinated loan to the Partnership to cover all costs until the property covers its costs. This loan will be subordinated to the first mortgage and to all Limited Partners initial contributions.

This letter only lays out the issues and a brief recap of our plan. We have scheduled Wednesday May 25<sup>th</sup> at 7:00 p.m. at The Copeland Group for a meeting of all interested Limited Partners. This is to go over our planning and your options in more detail.

Sincerely,



Donald E. Copeland

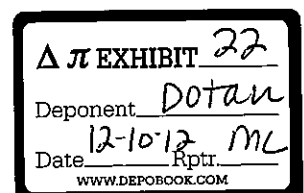


Exhibit A

Total Partner Contributions:	\$2,150,003.88
6% Return of Contributions:	\$129,000.23
divided by 12 months equals:	\$10,750.02 per month
Total Year to date Partner Distributions:	<u>\$179,166.99</u>
divided by \$10,750.02 equals:	16.67 months

At the amount already paid to the Partners, it will take 16.67 months from the date we closed on the property, July 7<sup>th</sup>, 2004, for the return to get to 6%.

**Exhibit B**

Purchase Price: 100% of your Investment,

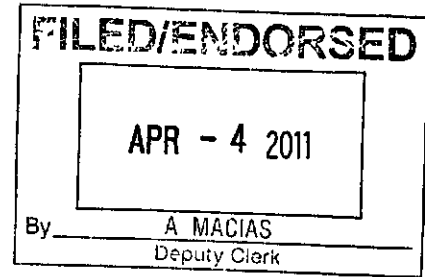
Terms: 6% interest only for one year, then all due and payable.  
(special terms for New Tax Free Exchange for those wanting one.)

Option: Can buy back in during this one year period.

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# EXHIBIT 10

1 Rollie A. Peterson, Esq. (SBN #13042)  
2 PETERSON & KELL, A LAW CORPORATION  
3 2377 Gold Meadow Way, Suite 280  
4 Gold River, California 95670  
5 Telephone: (916) 635-9300  
6 Fax: (916) 635-9303



7 Attorneys for Plaintiff Tri Tool Inc.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SACRAMENTO

10 TRI TOOL INC., a Nevada corporation,  
11 Plaintiff,  
12 vs.  
13 COPELAND PROPERTIES THREE, LP, a California limited partnership;  
14 CHARLES P. COPELAND, an Individual; DONALD E. COPELAND,  
15 an individual; and SANDRA HAYES, an individual; JOSEPH  
16 DOTON, an individual; MELVYN ROSS, an individual; LILLIAN  
17 FRANKLIN, an individual; WW EURA, an individual, DORTHY ZILLCH, an  
18 individual, CHARLES SCHWAB, FBO JANET I, NEAL BRICKER, an  
19 individual; and Does 1 through 12, inclusive,  
20 Defendants.  
21

CASE NO. 34-2009-00054045  
SECOND AMENDED COMPLAINT FOR MONEY  
[CC §§3302, 3439 et seq; Com C. §3122; Corp. C §§15666; 15905.08, 15905.09]

22  
23 Plaintiff Tri Tool Inc., a Nevada corporation (hereafter "Tri Tool") alleges:

24 I.

25 FIRST CAUSE OF ACTION AGAINST MAKER  
26 [CC §3302, Com C §3122]

27 1. Defendant Copeland Properties Three, LP, a California limited partnership (hereafter  
28 "Copeland Properties") is, and at all times herein mentioned was, doing business in Sacramento

1 County, California, and, in said county, entered into the Promissory Note (hereafter "Note"). A copy  
2 of this Note is attached hereto as Exhibit "A" and made a part hereof by this reference.

3 2. Defendant Charles P. Copeland (hereafter "C. Copeland") is a resident of San  
4 Bernardino County, California and guaranteed the Note. He was to perform his guarantee in  
5 Sacramento County, California.

6 3. Defendant Donald E. Copeland (hereafter "D. Copeland") is a resident of San  
7 Bernardino County, California and guaranteed the Note. He was to perform his guarantee in  
8 Sacramento County, California.

9 4. Defendant, Sandra Hayes (hereafter "Hayes"), is a resident of the City of Redlands,  
10 County of San Bernardino, State of California, and at all times herein mentioned, was a limited  
11 partner in Copeland Properties.

12 5. Defendant, Joseph Doton (hereafter "Doton"), is a resident of the City of Redlands,  
13 County of San Bernardino, State of California, and at all times herein mentioned, was a limited  
14 partner in Copeland Properties.

15 6. Defendant, Melvyn Ross (hereafter "Ross"), is a resident of the City of Newport  
16 Beach, County of Orange, State of California, and at all times herein mentioned, was a limited  
17 partner in Copeland Properties.

18 7. Defendant, Lillian Franklin (hereafter "Franklin"), is a resident of the City of San  
19 Bernardino, County of San Bernardino, State of California, and at all times herein mentioned, was  
20 a limited partner in Copeland Properties.

21 8. Defendant, WW Eura (hereafter "Eura"), is a resident of the City of Riverside, County  
22 of Riverside, State of California, and at all times herein mentioned, was a limited partner in  
23 Copeland Properties.

24 9. Defendant, Dorthy Zillich (hereafter "Zillich"), is a resident of the City of Redlands,  
25 County of San Bernardino, State of California, and at all times herein mentioned, was a limited  
26 partner in Copeland Properties.

27 10. Defendant, Charles Schwab, FBO Janet I (hereafter "Janet"), is a resident of the City  
28 of Indian Wells, County of Riverside, State of California, and at all times herein mentioned, was a

1 limited partner in Copeland Properties.

2 11. Defendant, Neal Bricker (hereafter "Bricker"), is a resident of the City of Claremont,  
3 County of Los Angeles, State of California, and at all times herein mentioned, was a limited partner  
4 in Copeland Properties.

5 12. Plaintiff is ignorant of the true names and capacities of the remaining defendants it  
6 sues herein as Does 1 through 12, inclusive, and therefore sues these defendants by such fictitious  
7 names. When Plaintiff ascertains the names of these defendants, it will amend this Complaint to  
8 allege their true names and capacities. Upon information, Plaintiff believes and thereon alleges that  
9 each defendant it fictitiously names is responsible in some manner for the occurrences Plaintiff  
10 alleges herein, and that these doe defendants' acts proximately caused the damages Plaintiff  
11 sustained, as it herein alleges.

12 13. On or about April 5, 2007, at Sacramento, Sacramento County, California, Copeland  
13 Properties, for valuable consideration made, executed, and delivered to Tri Tool the Note, in the  
14 amount of \$200,000, with interest, at the rate of 10% per annum. Copeland Properties made the  
15 Note payable within 24 months of execution. However, a condition to Copeland Properties'  
16 obligation to payment of the Note by Copeland Properties and Guarantors C. Copeland and/or D.  
17 Copeland (hereafter, collectively "Defendants"), was its failure to remove a certain unrecorded  
18 easement encumbering the real property Copeland Properties sold to Tri Tool (hereafter "Real  
19 Property") within 24 months (hereafter "Condition"). If removed, no amount thereon, would then  
20 be due and owing on the Note.

21 14. Copeland Properties failed to timely meet the Condition and the Note matured and  
22 became due and payable on April 5, 2009. On April 13, 2009, Tri Tool demanded payment of  
23 Defendants. Copeland Properties failed and refused and continues to fail and refuse to pay the Note,  
24 or any part of it, and there is now due, owing, and unpaid from Defendants and each of them, to  
25 Plaintiff, the whole thereof, together with interest thereon.

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**II.**

**SECOND CAUSE OF ACTION AGAINST GUARANTORS**  
**[Com C §3416]**

15. Plaintiff incorporates Paragraphs 1 through 14 herein above, as though fully set forth hereat.

16. On or about April 5, 2007, prior to delivery of the Note to Plaintiff, Defendants C. Copeland and D. Copeland, as a part of the same transaction stated above, guaranteed payment of the Note, in writing, on the face thereon, the indebtedness evidenced by the Note.

17. There is now due, owing, and unpaid to Plaintiff, from C. Copeland and D. Copeland, on account of the Note, jointly and severally, the sum of \$200,000, principal, and 10% interest thereon, from April 5, 2007 to time of judgment herein.

**III.**

**THIRD CAUSE OF ACTION AGAINST**  
**THE LIMITED PARTNERS ONLY FOR RETURN OF DISTRIBUTIONS**  
**[Corp. C. §15666, now §15905.08; §15905.09]**

18. Plaintiff incorporates Paragraphs 1 through 14 herein above, as though fully set forth hereat.

19. Plaintiff is informed and believes, and thereon alleges that, on or about February 2004, D. Copeland, as Copeland Properties' general partner, and the Defendants Hayes, Doton, Ross, Franklin, Eure, Zillch, Janet I and Bricker, as limited partners (hereafter Hayes, Doton, Ross, Franklin, Eure, Zillch, Janet I and Bricker are collectively referred to as "the Limited Partners"), executed a written limited partnership agreement organizing Copeland Three (hereafter "Partnership Agreement").

20. Plaintiff is informed and believes and based thereon alleges that the Partnership Agreement provided for Copeland Properties' partners to invest in the Real Property, to hold the Real Property as rental property, and to eventually sell the Real Property for a profit. The Real Property was Copeland Properties' sole asset.

21. On or about February 23, 2004, D. Copeland caused to be filed a certificate of limited partnership, with the California Secretary of State, pursuant to California Corporations Code,

1 Revised Limited Partnership Act, Section 15621.

2 22. Defendant Hayes, contributed to Copeland Properties, \$200,000, as capital, for her  
3 limited partnership interest.

4 23. Defendant Dotan, contributed to Copeland Properties \$215,000, as capital, for his  
5 limited partnership interest.

6 24. Defendant Ross, contributed to Copeland Properties \$215,000, as capital, for his  
7 limited partnership interest.

8 25. Defendant Franklin, contributed to Copeland Properties \$230,000, as capital, for her  
9 limited partnership interest.

10 26. Defendant Eure, contributed to Copeland Properties \$430,000, as capital, for his or  
11 her limited partnership interest.

12 27. Defendant Zilch contributed to Copeland Properties \$430,000, as capital, for her  
13 limited partnership interest.

14 28. Defendant Janet I contributed to Copeland Properties \$215,000, as capital, for her  
15 limited partnership interest.

16 29. Defendant Bricker contributed to Copeland Properties \$215,000, as capital, for his  
17 limited partnership interest.

18 30. On or about June 2007, D. Copeland caused the California Secretary of State to cancel  
19 the Certificate, dissolved the partnership, and distributed to the following Limited Partners, their  
20 capital contributions in the following amounts:

<u>Limited Partners</u>	<u>Distributions</u>
(a) Hayes	\$ 200,000
(b) Dotan	\$ 215,000
(c) Ross	\$ 215,000
(d) Franklin	\$ 230,000
(e) Eure	\$ 430,000
(f) Zilch	\$ 430,000
(g) Janet I	\$ 215,000
(h) Bricker	\$ 215,000
<b>TOTAL ASSETS WITHDRAWN:</b>	<b><u>\$2,150,000</u></b>

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27  
28 31. D. Copeland paid the foregoing \$2,150,000 to the Limited Partners, as a return of

1 their capital contributions, even though there was not sufficient partnership property to pay the debts  
2 and liabilities of Copeland Properties at the time he dissolved Copeland Properties.

3 32. Copeland Properties has no assets, other than the \$2,150,000 cash (hereafter "Cash  
4 Assets") withdrawn by the Limited Partners and is insolvent.

5 33. The Limited Partners had a duty not to withdraw any part of the contributions to  
6 Copeland Properties until all liabilities of Copeland Properties, except liabilities to D. Copeland, had  
7 been paid.

8 34. The Limited Partners have no right to retain the \$2,150,000 when there is insufficient  
9 partnership property to pay Copeland Properties' debts.

10 35. By the Limited Partners' actions, Plaintiff has been damaged by the Limited Partners  
11 to the extent of \$200,000, plus interest thereon, from the time due, at the rate of 10%, plus attorney  
12 fees, as to be determined by the court.

13 **IV.**

14 **FOURTH CAUSE OF ACTION**  
15 **AGAINST THE LIMITED PARTNERS ONLY FOR**  
16 **TRANSFERS OF ASSETS IN VIOLATION**  
17 **OF THE UNIFORM FRAUDULENT TRANSFER ACT**  
18 **[CC §§3439 et seq.]**

19 36. Plaintiff incorporates Paragraphs 1 through 14, and 19 through 35 herein above, as  
20 though fully set forth hereat.

21 37. The obligations sued upon are not subject to the provisions of California Civil Code  
22 (hereafter "CC") §1812.10 ("Retail Installment Sales") and §2984.4 ("Automobile Sales Finance  
23 Act").

24 38. Plaintiff's claims against Copeland Properties arose before Copeland Properties  
25 transferred the Cash Assets to the Limited Partners.

26 39. Plaintiff is informed and believes, and based thereon alleges that the transfers made  
27 by D. Copeland to the Limited Partners on or about June 2007, described herein, were made with  
28 actual intent to hinder, delay or defraud Plaintiff's collection of monies Copeland Properties owed  
Plaintiff. Plaintiff is informed and believes that, amongst other things, the Limited Partners and the  
Defendants Does 1 through 12, and each of them, caused the Cash Assets to be beyond the reach of

1 Copeland Properties' judgment creditors, which was otherwise available to satisfy the debt Copeland  
2 Properties owed Plaintiff by:

- 3 (a) transferring the Cash Assets to insiders;
- 4 (b) the transfers were all of Copeland Properties' assets available to it with which to  
5 satisfy its debts;
- 6 (c) the transfer was made in violation of law, to wit Corporations Code §15660, now  
7 §15905.08 and §15905.09.
- 8 (d) Copeland Properties was insolvent immediately after the transfer was made.

9 Therefore, the transfer of the Cash Assets to the Limited Partners on or about June 2007 was  
10 a fraudulent transfer pursuant to the Uniform Fraudulent Transfer Act (hereafter "UFTA") CC  
11 §3439, et seq.

12 40. At the time of the transfers of the Cash Assets the Limited Partners knew or should  
13 have known that the transfer would result in rendering Copeland Properties insolvent and that  
14 Copeland Properties had incurred debts beyond its ability to pay them as they became due, of which  
15 was known or should have been known to the Limited Partners.

16 41. The assets of Copeland Properties are non-existent to satisfy Plaintiff's claims and  
17 therefore, the transactions should be set aside or voided to satisfy Plaintiff's claim and Plaintiff  
18 should be awarded damages against the Limited Partners, and the Defendants Does 1 through 12,  
19 and each of them, jointly and severally, in the sum of the wrongful transfers received by them.

20 42. Copeland Properties has been dissolved and has no assets to satisfy Plaintiff's claims.  
21 Pursuant to the UFTA CC §3439.07(a)(1) and UFTA CC §343907(a)(1), Plaintiff is entitled to avoid  
22 the transfer of the Cash Assets to the Limited Partners to the extent necessary to satisfy its claims  
23 under subpart 2, is entitled to an attachment of the Cash Assets in accordance with CCP §481.010,  
24 and under subpart 3, to injunctive relief.

25 43. Pursuant to UFTA CC §3439.08(b), Plaintiff is entitled to recovery damages against  
26 the Limited Partners, and the Defendants, Does 1 through 12, and each of them, jointly and severally,  
27 to the extent they are subsequent transferees of interest of assets in which Copeland Properties had  
28 a substantial interest, the amount equal to the value of Copeland Properties' interest in the Cash

1 Assets.

2 44. The Limited Partners, and each of them, intentionally, wilfully, fraudulently and  
3 maliciously did the things herein to defraud and oppress Plaintiff. Because Defendants, and each  
4 of them, have participated in a fraud and because defendants, and each of them, set about in a  
5 preconceived plan to place the assets of Copeland Properties beyond the reach of Plaintiff, Plaintiff  
6 is entitled to exemplary and punitive damages.

7 **WHEREFORE**, Tri Tool prays judgment against Defendants, and each of them, jointly and  
8 severally, as follows:

- 9 1. For the principal sum of \$200,000.
- 10 2. For interest on the principal sum at 10% per annum from April 5, 2007, to judgment.
- 11 3. For reasonable attorney's fees, according to proof.
- 12 4. For costs of suit herein incurred.
- 13 5. For such other and further relief as the Court may deem proper.

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17 Dated: May 30, 2011

**PETERSON & KELL,  
A LAW CORPORATION**

By: 

**ROLLEE A. PETERSON, ESQ.,  
Attorney for Plaintiff Tri Tool Inc.**

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# EXHIBIT “A”

## STRAIGHT NOTE

April 5<sup>th</sup>, 2007

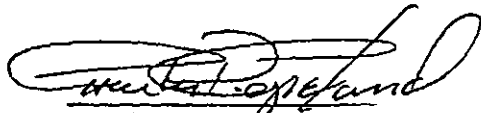
Copeland Properties Three L.P. promises to pay Tri Tool, Inc. the sum of \$200,000.00 at the end of 24 months from the date escrow number 276981, held with First American Title Company in Sacramento California, closes, if the unrecorded easement is not removed within this 24 month timeframe. The easement is defined as follows:

AN UNRECORDED ESMT. 26' WIDE FROM KENNETH L. BOGAN TO RICHARD W. DE SILVA AND HIS SUCCESSORS FOR THE PURPOSE OF INGRESS & EGRESS TO SUNRISE BOULEVARD. EASEMENT LOCATION TO BE WITHIN THE WESTERLY 50' OF PARCELS 2, 3 & 4 OF 33PMI

Furthermore, the \$200,000 is guaranteed by Charles P. Copeland and Donald E. Copeland individually and collectively.

"The undersigned agree to reimburse the Holder or Owner of this Straight Note for any and all costs and expenses (including without limit, court costs, legal expenses and reasonable attorney fees, whether or not suit is instituted and, if suit is instituted, whether at the trial court level, appellate level, in a bankruptcy, probate or administrative proceeding or otherwise) incurred in collecting or attempting to collect this Straight Note or incurred in any other manner or proceeding related to this Straight Note."

"If this Note is not paid when due, interest will accrue from the due date of this Note at the rate of ten percent (10%) per annum or the maximum amount allowed by law, whichever is lower."



Charles P. Copeland  
Guarantor

Copeland Properties Three L.P.

BY:



Donald E. Copeland  
General Partner



Donald E. Copeland  
Guarantor

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# EXHIBIT 11



**OBJECTING LPS  
PROPOSED REVISED DISTRIBUTION SCHEDULE  
CP18 Sales Proceeds Distribution**

<b>CASH</b>			
Cash on Hand 08-09-13		\$2,687,099.81	
Escrowed Sales Proceeds		\$597,768.55	
Total Available Funds		<u>\$3,284,868.36</u>	
<b>DISBURSEMENTS</b>			
SBMS Landmark Center Lender		\$385,000.00	
<b>Other Liabilities</b>			
2005 - Note Payable - CPS		\$45,500.00	Receivership Estate
2015- CP15 Loan Payable		\$25,000.00	Receivership Estate
2017 - Note Payable - CP17		\$20,700.00	Receivership Estate
2030.3 - Note Payable-		\$93,000.00	Receivership Estate
<del>2030 - Note Payable - CR1</del>		<del>\$200,524.68</del>	<del>Receivership Estate</del>
2003 - Note Payable CP3		\$200,524.68	
<del>2035 - N/P - Accrued Management</del>		<del>\$165,466.89</del>	<del>Receivership Estate</del>
Accrued Attorneys Fees		\$67,251.50	Receivership Estate
		\$451,976.18	
		<del>\$617,442.98</del>	
<b>COSTS</b>			
2011 to 2013 Tax Return Preparation		\$10,000.00	
2012 Taxes		\$12,240.00	
Contingency - 2013 Taxes & Other Obligations		\$2,760.00	
		<u>\$25,000.00</u>	
<b>Net Proceeds for Distribution</b>		<del>\$2,257,425.38</del>	
<b>Net Proceeds for Distribution</b>		<b>\$2,422,892.18</b>	
<b>Equity</b>			
Adele Hansen	5.63426%	\$136,512.04	<del>\$127,189.22</del> Withhold \$5,121.43 - Owes Attorney's Fees to personal counsel
Albert Reid IRA	4.02447%	\$97,508.57	<del>\$90,849.41</del>
Barbara Z. Stahr	4.61472%	\$111,809.69	<del>\$104,173.86</del>
Taber Family Trust	12.23439%	\$296,426.08	<del>\$276,182.22</del> Withhold \$9,099.00 - Owes to CFI1
Carol P. Lowe	4.02447%	\$97,508.57	<del>\$90,849.41</del>
David Zillich Trust	4.61472%	\$111,809.69	<del>\$104,173.86</del>
Diana M. Weed	2.30737%	\$55,905.09	<del>\$52,087.16</del>
Timothy C. Weed	2.30737%	\$55,905.09	<del>\$52,087.16</del>
Ehud Dotan IRA	2.06053%	\$49,924.42	<del>\$46,514.93</del>
Dotan Family Trust	7.30844%	\$177,075.62	<del>\$164,982.58</del> Withhold \$5,121.43- Owes Attorney's Fees to personal counsel
Janet Ilde IRA	6.92209%	\$167,714.78	<del>\$156,261.02</del> <del>Withhold All - Owes \$579,135.55 to CWM, CFI3 and CP12</del>
Melvyn & Ruth Ross Revocable	6.92209%	\$167,714.78	<del>\$156,261.02</del> Withhold \$5,121.43 - Owes Attorney's Fees to personal counsel
Sandra Hayes	6.43915%	\$156,013.66	<del>\$145,359.01</del>
Steve Weiss IRA	2.99420%	\$72,546.24	<del>\$67,591.83</del>
Steven Tozier IRA	3.86349%	\$93,608.20	<del>\$87,215.40</del> Withhold \$5,121.43 - Owes Attorney's Fees to personal counsel
W.W. Eure	10.84997%	\$262,883.07	<del>\$244,929.98</del> Withhold All - Owes \$388,020.56 to CWM and other potential obligation
CWM Real Estate - Payable to the Melvyn & Ruth Ross Revocable Trust, per security interest in CWM Equity for \$350,000 loan	6.08537%	\$147,441.95	<del>\$137,372.69</del> Receivership Estate
Copeland Property 5	6.79290%	\$164,584.64	<del>\$153,344.65</del> Receivership Estate
Counsel for Adele Hansen, Dotan Family Trust, Melvyn & Ruth Ross Revocable Trust, and Steven Tozier IRA	0.00000%		Total Fees \$20,485.72
Totals	100.00000%	<u>\$2,422,892.18</u>	<del>\$2,257,425.38</del>
<b>Total Distributions</b>		<b>\$3,284,868.36</b>	

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# EXHIBIT 12

**OBJECTING LPS  
PROPOSED REVISED DISTRIBUTION SCHEDULE  
CP18 Sales Proceeds Distribution**

**CASH**

Cash on Hand 08-09-13	\$2,687,099.81
Escrowed Sales Proceeds	\$597,768.55
Total Available Funds	\$3,284,868.36

**DISBURSEMENTS**

SBMS Landmark Center Lender	\$385,000.00
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**Other Liabilities**

2005 - Note Payable - CPS	\$45,500.00	Receivership Estate
2015- CP15 Loan Payable	\$25,000.00	Receivership Estate
2017 - Note Payable - CP17	\$20,700.00	Receivership Estate
2030.3 - Note Payable-	\$93,000.00	Receivership Estate
2003 - Note Payable CP3	\$200,524.68	
Accrued Attorneys Fees	\$67,251.50	Receivership Estate
	\$451,976.18	

**COSTS**

2011 to 2013 Tax Return Preparation	\$10,000.00
2012 Taxes	\$12,240.00
Contingency - 2013 Taxes & Other Obligations	\$2,760.00
	\$25,000.00

**Net Proceeds for Distribution** **\$2,422,892.18**

**Equity**

Adele Hansen	5.63426%	<b>\$136,512.04</b>	Withhold \$5,121.43 - Owes Attorney's Fees to personal counsel
Albert Reid IRA	4.02447%	<b>\$97,508.57</b>	
Barbara Z Stahr	4.61472%	<b>\$111,809.69</b>	
Taber Family Trust	12.23439%	<b>\$296,426.08</b>	Withhold \$9,099.00 - Owes to CFII
Carol P Lowe	4.02447%	<b>\$97,508.57</b>	
David Zilch Trust	4.61472%	<b>\$111,809.69</b>	
Diana M Weed	2.30737%	<b>\$55,905.09</b>	
Timothy C Weed	2.30737%	<b>\$55,905.09</b>	
Ehud Dotan IRA	2.06053%	<b>\$49,924.42</b>	
Dotan Family Trust	7.30844%	<b>\$177,075.62</b>	Withhold \$5,121.43- Owes Attorney's Fees to personal counsel
Janet Ihde IRA	6.92209%	<b>\$167,714.78</b>	
Melvyn & Ruth Ross Revocable	6.92209%	<b>\$167,714.78</b>	Withhold \$5,121.43 - Owes Attorney's Fees to personal counsel
Sandra Hayes	6.43915%	<b>\$156,013.66</b>	
Steve Weiss IRA	2.99420%	<b>\$72,546.24</b>	
Steven Tozier IRA	3.86349%	<b>\$93,608.20</b>	Withhold \$5,121.43 - Owes Attorney's Fees to personal counsel
W.W. Eure	10.84997%	<b>\$262,883.07</b>	Withhold All - Owes \$388,020.56 to CWM and other potential obligation

**CWM Real Estate - Payable to the Melvyn & Ruth Ross Revocable Trust, per security interest in CWM Equity for \$350,000 loan**

	6.08537%	<b>\$147,441.95</b>
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Copeland Property 5	6.79290%	<b>\$164,584.64</b>	Receivership Estate
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Counsel for Adele Hansen, Dotan Family Trust, Melvyn & Ruth Ross Revocable Trust, and Steven Tozier IRA	0.00000%		Total Fees \$20,485.72
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Totals	100.00000%	<b>\$2,422,892.18</b>
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**Total Distributions** **\$3,284,868.36**

1 Robert H. Ziprick, SBN 069571  
2 William F. Ziprick, SBN 096270  
3 **ZIPRICK & CRAMER, LLP**  
4 707 Brookside Avenue  
Redlands, California 92373  
Telephone (909) 798-5005 / Facsimile (909) 793-8944

5 Attorneys for Janet Ihde, Charles Schwab FBO Janet Ihde IRA, Sandra Hayes, Melvyn  
6 and Ruth Ross, Melvyn and Ruth Ross Revocable Trust, Joseph and Beth Dotan,  
7 Dotan Family Trust

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

10  
11  
12 SECURITIES AND EXCHANGE  
13 COMMISSION,

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15 Plaintiff,

16 v.

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

23  
24 Defendants.

} Case No.: 2:11-cv-08607-R-DTB

} **DECLARATION OF ROBERT H.  
ZIPRICK SUPPORTING  
OBJECTING LPS' SUR-REPLY TO  
RECEIVER'S REPLY TO  
OBJECTING LPS' OPPOSITION TO  
RECEIVER'S MOTION FOR  
ORDER: (1) APPROVING THE  
RECEIVER'S DISTRIBUTION OF  
ASSETS TO THE INVESTORS OF  
COPELAND PROPERTIES 18, L.P.;**  
} **AND (2) AUTHORIZING  
TERMINATION AND  
CANCELLATION OF COPELAND  
PROPERTIES 18, L.P. AS AN  
ENTITY; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF OPPOSITION SUR-  
REPLY**

25 -  
26 Date: October 21, 2013  
27 Time: 10:00 a.m.  
28 Ctrm: 8, 2nd Floor  
Judge: Hon. Manuel L. Real

1 I, ROBERT H. ZIPRICK, declare as follows:

2 1. I am over the age of eighteen (18) years and am not a party to the above-  
3 entitled action.

4 2. I have personal knowledge of the matters set forth herein, except as to  
5 those matters stated upon information and belief, and as to those matters, I believe  
6 them to be true. If called upon as a witness, I could and would competently testify  
7 thereto.

8 3. I am an attorney representing certain Limited Partners of Copeland  
9 Properties 18, LP (“CP18”): Charles Schwab FBO Janet Ihde IRA, Dotan Family  
10 Trust, Sandra Hayes, and Melvyn and Ruth Ross Revocable Trust (Objecting LPs),  
11 and others.

12 4. I make the following reply to statements made in the Reply Declaration  
13 Of Toby S. Kovalivker (“Kovalivker”) To Opposition To Motion For Order  
14 (Document 356-9, “Kovalivker Declaration”):

15 5. After receipt of Kovalivker’s demand letter referred to in ¶ 4 of  
16 Kovalivker’s Declaration, I responded to Kovalivker with a letter asking her to  
17 provide the specific basis for the demand against Ihde and raised the counter claim of  
18 Ihde against Charles Copeland and related entities which I asserted was significantly  
19 larger than the Receiver’s demands against Ihde (Document 331-1, Ex. 11). To the  
20 best of my knowledge, I never received a written response which I had requested.

21 6. When I was obtaining records at the Receiver’s law firm’s office  
22 (“Receiver’s Counsel”), I did speak with Kovalivker about the Receiver’s claim and  
23 Ihde’s counter claim (Kovalivker Declaration ¶ 6). As a part of that conversation, I  
24 never suggested to Kovalivker at any time that I was satisfied with her explanation as  
25 to the basis for the Receiver’s claim. In fact, I explained to her how much Ihde had  
26 been damaged by Copeland’s actions. Kovalivker indicated that from a review of the  
27 records, it appeared that Janet Ihde was one of the worst examples of Copeland’s  
28

1 wrongful actions, and asked to conduct a telephone interview with her to prepare a  
2 declaration. Janet Ihde wanted to cooperate, and was willing to provide information  
3 about the manner in which she had been financially devastated by Copeland's actions.  
4 A telephone interview was indeed conducted in which Kovalivker, Janet Ihde and I  
5 participated. A declaration was prepared by Kovalivker for Janet Ihde to sign based  
6 upon that telephone interview. After that point in time, no attorney representing the  
7 Receiver ever again raised any issue concerning any purported claims against Janet  
8 Ihde. Instead, I was left with the clear understanding that the Receiver considered  
9 Janet Ihde among the very worst abused of the investors in any of the Copeland  
10 Properties.

11  
12 7. Further, when an opportunity was presented to submit claims to the  
13 Receiver, I assisted Janet Ihde in filing a claim which set forth her damages. The  
14 Receiver did not object to her claim, nor did his legal counsel.

15 8. Concerning Kovalivker's ¶ 9, when I made the first trip to the Receiver's  
16 Counsel's office, I marked the documents that I wanted to obtain. I was informed that  
17 I had to use a copy service chosen by Receiver's counsel. A paralegal sent by  
18 Attorney Brubacher also marked documents at that same time. However, when the  
19 copied documents arrived at my office, it was apparent that some documents were  
20 missing. My staff and that of Attorney Brubacher compared what documents had  
21 been obtained, and it became clear that we had not obtained all documents that had  
22 been marked, including many key documents.

23 9. Later, Attorney Peterson and I arranged to go back to the Receiver's  
24 Counsel's office to again inspect and mark records. I drove as far as Escondido  
25 (approximately 70 miles) and then received a call from Attorney Peterson that the  
26 inspection of documents had been called off per a call he told me had come from the  
27 Receiver's Counsel. Based upon this, I turned around and went back to my office.  
28 Attorney Peterson and I were forced to reschedule document review for a later date.

1           10. Attorney Peterson and I then were eventually able to inspect the  
2 documents at the Receiver's Counsel's office. He and I both noted that my post-its  
3 showing which documents were to have been copied on my first visit were still in  
4 place, and that they included documents missed in the first copying of Receiver's  
5 records. I made no secret to staff at the Receiver's Counsel's office that documents  
6 previously ordered were having to be reordered, as a number of requested documents  
7 had been missed. The fact is that the documents were not fully copied as marked in  
8 my first visit to the Receiver's Counsel. Mr. Peterson witnessed that I had marked a  
9 considerable number of documents that we then re-ordered on my second visit.  
10

11           11. The significance of a number of the documents that were obtained from  
12 these two visits to the Receiver's counsel was not fully appreciated until depositions  
13 were subsequently taken of Pacific Western Bank staff and Mr. Copeland himself.  
14 These depositions followed the second visit to the Receiver's counsel and the review  
15 of the records obtained on that second visit.

16           12. I make the following reply to statements made in the Reply Declaration  
17 Of John H. Stephens ("Stephens") To Opposition To Motion For Order (Document  
18 356-6, "Stephens Declaration"):

19           13. Concerning ¶¶ 13 through 15 of the Stephens Declaration, Attorneys  
20 Brubacher, Peterson and myself set a conference call with Stephens on May 21, 2013.  
21 Notice had recently been received that the Receiver or his counsel were preparing to  
22 destroy records that would be relevant, and the three law firms wanted to ensure that  
23 those records were not destroyed. We also wanted to bring to the Receiver's attention  
24 what had been learned from the documents obtained from the Receiver's Counsel and  
25 from recent depositions of Pacific Western Bank and Charles Copeland, including  
26 details about the flow of funds from Copeland Properties Three, L.P. ("CP3") through  
27 Copeland Properties 14, L.P. ("CP14") to CP18. We did not yet have all of the facts,  
28 but we had enough information to bring our concerns to the Receiver and his counsel.

1 It was my recollection that Mr. Stephens seemed surprised by what we related to him,  
2 and he asked for more information. As I recall, during the conference call Attorney  
3 Peterson agreed to provide further documentation to Stephens. This discussion was  
4 almost three months before the Receiver’s filing of the Motion to Distribute Assets  
5 and close CP18, and certainly it was not a “Meet and Confer” as no specifics of a  
6 motion were even discussed.

7 14. Concerning ¶ 19 of Stephen’s Declaration regarding his June 14, 2013,  
8 email asking about who I represented in this matter, this had already been disclosed to  
9 Receiver’s Counsel in 2012, when that information was provided before I was even  
10 allowed to examine any of the Receiver files. I also recall discussing who we  
11 represented when I was visiting Receiver’s Counsel’s offices on two occasions to  
12 inspect records, which Stephens in fact essentially acknowledges in ¶ 22 of his  
13 Declaration.

14 15. Concerning Stephens’ claim regarding various emails, I and my office  
15 have responded to various communications from Receiver’s Counsel by both phone  
16 calls and emails.

17 I declare under penalty of perjury under the laws of the State of California that  
18 the foregoing is true and correct and if called upon to testify in this matter, I could and  
19 would testify as set forth above.  
20

21 This Declaration is made this 7<sup>th</sup> day of October, 2013, in Redlands, California.

22  
23 Dated: October 7, 2013

24 /s/Robert H. Ziprick  
**ROBERT H. ZIPRICK**



1 Robert H. Ziprick, SBN 069571  
2 William F. Ziprick, SBN 096270  
3 **ZIPRICK & CRAMER, LLP**  
4 707 Brookside Avenue  
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6 Telephone (909) 798-5005 / Facsimile (909) 793-8944

7 Attorneys for Janet Ihde, Charles Schwab FBO Janet Ihde IRA,  
8 Sandra Hayes, Melvyn and Ruth Ross, Melvyn and Ruth Ross  
9 Revocable Trust, Joseph and Beth Dotan, Dotan Family Trust

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 v.

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

23 Defendants.  
24

) Case No.: 2:11-cv-08607-R-DTB

) **DECLARATION OF SANDRA  
HAYES IN SUPPORT OF  
OBJECTING LPS' SUR-REPLY TO  
RECEIVER'S REPLY TO  
OBJECTING LPS' OPPOSITION  
TO RECEIVER'S MOTION FOR  
ORDER: (1) APPROVING THE  
RECEIVER'S DISTRIBUTION OF  
ASSETS TO THE INVESTORS OF  
COPELAND PROPERTIES 18,  
L.P.; AND (2) AUTHORIZING  
TERMINATION AND  
CANCELLATION OF COPELAND  
PROPERTIES 18, L.P. AS AN  
ENTITY**

) Date: October 21, 2013

- Time: 10:00 a.m.

Ctrm: 8, 2<sup>nd</sup> Floor

Judge: Hon. Manuel L. Real

25  
26  
27  
28 I, Sandra Hayes, declare as follows:

1           1.     I am over the age of eighteen (18) years old.

2           2.     I have personal knowledge of the matters set forth herein, except as to  
3 those matters stated on information and belief, and as to those matters, I believe them  
4 to be true. If called upon as a witness, I could and would competently testify thereto.

5           3.     I have a Masters Degree in Education and my career was as a home  
6 economics teacher. I have been retired since 1996, now for over 17 years. I am  
7 presently 73 years old.

8           4.     Chuck Copeland was my husband's and my CPA for a number of  
9 decades, and we put great trust in him as our trusted financial advisor.

10          5.     Excluding our family home, almost half of our net worth was invested in  
11 Copeland Properties Three, L.P., a limited partnership ("CP3").

12          6.     The physical, mental and financial strain from what my husband and I  
13 have gone through because of the actions of Chuck Copeland and Copeland Realty,  
14 Inc. ("CRI") regarding my investment in CP3, and ultimate involvement in Copeland  
15 Properties 14, L.P. ("CP14")/Copeland Properties 18, L.P. ("CP18") and has been  
16 incredibly taxing. Between financial losses, contingent liabilities and attorney's fees  
17 to defend ourselves, it has drastically and negatively impacted our quality of life, and  
18 created great uncertainty for our future. For example, even though my husband & I  
19 recently had our 50th year anniversary, we were afraid to spend any money even  
20 celebrating such an event, because of concerns about our financial future.

21          7.     I specifically remember receiving the memorandum/contractual  
22 commitment dated May 3, 2005, from Don Copeland for CRI ("Loan Subordination  
23 Agreement") and still have a copy of this important document in my files, which is  
24 attached hereto as Exhibit 1 and incorporated herein by this reference. Based on  
25 information and belief, it is now my understanding that the IRS some months  
26 previously had notified the Managing General Partner of CP3, CRI, of its intention to  
27  
28

1 terminate its lease at the building owned by CP3 in Rancho Cordova, California, all as  
2 of May 3, 2005.

3 8. It is my understanding that through the Loan Subordination Agreement,  
4 CRI committed and agreed to loan funds to CP3, which loans would be subordinated  
5 to the limited partners receiving all of their capital contributions back, with my capital  
6 contribution to CP3 being \$200,000.

7 9. I also specifically remember that as part of my investment in CP3, that  
8 Chuck Copeland, on behalf of CRI (the managing general partner of CP3) guaranteed  
9 that all of the investors would receive at least a 6% return on their funds, and that any  
10 compensation and/or profit which CRI would receive would only be after the various  
11 investors have received their minimum 6% rate of return first. This commitment from  
12 CRI to all of us Limited Partners in CP3 was also again confirmed in the May 3, 2005,  
13 Loan Subordination Agreement.

14 10. I did not know anything about CRI purchasing another parcel (“Wrap  
15 Around Parcel”), which I am now informed and believe was adjacent to the building  
16 and parcel in Rancho Cordova, California, owned by CP3 (“CP3 Building”). I do not  
17 know whether CRI, in some form or fashion, ultimately had CP3 effectively pay for  
18 some or all of the expenditures for this Wrap Around Parcel, even though I am  
19 informed and believe that CRI put title to this Wrap Around Parcel in its own name.  
20 It seems to me that this was a clear conflict of interest on the part of the Managing  
21 General Partner of CP3 to purchase this Wrap Around Parcel without informing the  
22 CP3 Limited Partners about this parcel, and giving CP3 an opportunity to purchase  
23 this Wrap Around Parcel, itself.

24 11. I am now informed and believe that when CRI sold the Wrap Around  
25 Parcel along with the CP3 Building at the same time in 2007, even though I did not  
26 realize it at the time. I am now informed and believe that CRI unilaterally transferred  
27 to itself what it claimed was its share of the sale proceeds (by increasing CP3’s debt to  
28

1 CRI), even though none of the details were ever presented to the Limited Partners of  
2 CP3 for our approval, as was required by the Partnership Agreement, recognizing that  
3 this was also a conflict of interest on CRI's part. As I was never told about these  
4 details, I am fairly certain that I never was asked by CRI to approve of this and never  
5 did approve these things. If asked to approve, under the circumstances, I would have  
6 liked to know the value of the Wrap Around Parcel, the basis for any allocation of the  
7 sale proceeds to CRI, had CRI pay its fair share of the ongoing costs and sale related  
8 costs, and were there other documents or commitments that had been made which  
9 would affect my decision.

10 12. I had never heard of the entity Tri Tool until in 2011 when I was served  
11 with a lawsuit from Tri Tool, which I understand alleges that I improperly received  
12 partnership distributions from CP3. I had no knowledge that there was a contingent  
13 liability note from CP3 to Tri Tool based upon an unrecorded easement, of which I  
14 had never previously heard of or had any discussions about with anyone until after  
15 being sued.

16 13. Until rather recently, I had never heard about a \$1,800,000 loan being  
17 made to CP3 by any bank, or that these funds, I am informed and believe, were  
18 subsequently loaned to Copeland Properties 14, L.P., and then on to Copeland  
19 Properties 18, L.P.

20 14. Considering the terribly harmful and wrongful things which I now  
21 understand that Chuck Copeland and CRI have done, it is outrageous, in my opinion,  
22 that the Receiver would even attempt to charge CP 18 for management fees for such  
23 activities. To add insult to injury, I understand that the Receiver is attempting to  
24 charge and collect interest on such management fees, all at the same time that the  
25 CP18 Limited Partners will be losing very significant amounts of their initial capital  
26 investments.  
27  
28

1           15. To the best of my recollection, I never signed any such Partnership  
2 Agreement amendment to increase the management fees paid to CRI from CP18. I  
3 did have in my files an unsigned and undated letter from Don Copeland asking for the  
4 Limited Partners of CP18 to approve of a change in the Partnership Agreement to  
5 increase the fees paid to the General Partner, based upon an alleged mistake. A copy  
6 of this letter is attached hereto as Exhibit 2 and incorporated herein by this reference.

7           16. I had no knowledge, until very recently, and I am now informed and  
8 believe: (1) that CRI, as the Managing General Partner of CP3, had CP3 make a loan  
9 of approximately \$423,000 to CP18 in 2007, and (2) that CRI had attempted to  
10 transfer this valuable note to itself, without the approval from the Limited Partners of  
11 CP3. I now understand that this would have been required under the CP3 Partnership  
12 Agreement prior to any such transfer, which I understand was designed for the  
13 protection for the Limited Partners. You don't have to be a lawyer to know that it is  
14 wrong and a terrible conflict of interest for CRI to attempt to transfer such a note to  
15 itself, without ever even informing any of us Limited Partners, much less getting our  
16 required approval. To the best of my knowledge, I never gave any approval for such  
17 attempted transfer of the \$423,000 note to CRI.

18           17. I was never aware until recently that CRI had charged a \$700,000 fee to  
19 CP18 for assigning CRI's right to purchase a property in North Carolina to CP18.  
20 I also did not know that this fee was the basis for the equity interests issued to CRI in  
21 CP18, and that in reality, CRI did not put in any cash for this equity interests in CP18.

22           18. I am personally appalled that the Receiver would have the audacity to  
23 state in its Receiver's Reply that "Opposing Partners once more are attempting to  
24 maximize their good fortune by compounding the misfortune of others." (Document  
25 356-Receiver's Reply, page 19, lines 1&2). The Receiver has not lost any money over  
26 the Copeland fiasco, but has only made money, with every dime that the Receiver, his  
27 attorneys and accountants charge being paid out of what is left of investor's money,  
28

1 which in turn causes more loss to the investors. Yet I certainly don't see the Receiver  
2 offering to provide these services for free, but I am informed and believe that the  
3 Receiver charges for all time spent, even when the time is spent opposing the  
4 legitimate and lawful rights of Limited Partners, such as in CP3 and CP18. If the  
5 Receiver had personally lived through the nightmare that the Limited Partners have  
6 experienced over these past years, I do not think that the Receiver would so cavalierly  
7 state that this has been our "good fortune". Nothing could be further from the truth,  
8 and I greatly resent the implication that the Receiver makes that we are "once more,"  
9 attempting to cause the misfortune of others, when we have been such victims  
10 ourselves.

11 19. If presented with the opportunity to vote for or against the \$423,000 note  
12 transfer to CRI, particularly with the facts I have now learned and understand, I would  
13 never have voted for such a transfer, as it would have violated binding commitments  
14 made to me and the other limited partners of CP3 by CRI and Chuck Copeland. These  
15 commitments included CRI's promise that we would be fully repaid our initial  
16 investment before any loan to CRI was repaid.

17 20. I was personally sued by Tri Tool in April, 2011, and as I understand it,  
18 they alleged that I was not entitled to receive distributions I received, even though I  
19 received no cash distributions from the property sale made by CP3 in April, 2007.  
20 Until the completion of the Tri Tool litigation, I will not know if I will be required to  
21 return any of the partnership distribution I received from CP3. This means that I have  
22 not really received all my initial capital contribution in CP3, as I have a potential  
23 contingent liability outstanding against the distribution I received of my initial  
24 contribution.  
25

26 21. My entire career I worked as a schoolteacher, and obviously not as an  
27 accountant. Yet I still cannot understand why on so many issues in dispute that the  
28 Receiver, and his numerous attorneys and accountants appear to have not done basic

1 verification work to confirm the facts, such as talking to the investors, quizzing the  
2 Copelands to determine the truth, and reviewing all the relevant documents to  
3 determine the true facts. Instead, it appears that the Receiver oftentimes simply relied  
4 on whatever the Copelands placed in the accounting records, especially when this  
5 benefits the Receiver's Estate, to the detriment of individuals who are Limited  
6 Partners in partnerships such as CP3 and CP18, partnerships which I understand the  
7 Receiver is also to protect and represent. As Limited Partners, are we not entitled to  
8 fundamental fairness and justice?

9         22. The Receiver refers to the understandable frustration of the Objecting  
10 LPs. The greatest frustration of the Objecting LPs is when the Receiver does not do  
11 his job well, and then spends our own money fighting us, all the while we are forced  
12 to use our own remaining precious resources to do the job the Receiver should have  
13 done and thus are paying twice for it.

14         23. It is greatly troubling to me that this Receiver asked the Court to blindly  
15 follow accounting records, and to ignore other critical documents which conclusively  
16 and repeatedly demonstrate that such accounting records were not accurate. Is that not  
17 what a proper investigation should be, to accurately determine the truth on such issues  
18 as what management fees are owed by CP18, if any (by reviewing, among other  
19 things, the underlying contract which is the basis for any liability owed to CRI), to  
20 determine if the various requirements for the attempted transfer by CRI of a large  
21 asset (a \$423,000 note of CP3's) to itself were met, and on other matters, as well?

22         24. I don't believe it is too much to ask of the Receiver that he be paying  
23 attention when he does look at a document. In the Receiver's Declaration (document  
24 356-1, ¶ 37, lines 12-16), the Receiver makes reference to the Limited Partnership  
25 Agreement of CP3, and states that a copy of said Limited Partnership Agreement is  
26 attached as Exhibit 15 to the Receiver's Declaration. However, when you turn to  
27 Exhibit 15, not only is it not the Limited Partnership Agreement of CP3, instead it is  
28

1 an unsigned copy of the Limited Partnership Agreement of CP 18. Even a cursory  
2 review of the first page of that document should make this abundantly clear to anyone.  
3 It specifically refers to “Copeland Properties 18, L.P. in two different spots on the first  
4 page (initial recital and in ¶ 1.02) as well as having an extensive discussion in the “2<sup>nd</sup>  
5 WHEREAS” concerning the underlying financing of the property in North Carolina to  
6 be acquired by CP 18. As a schoolteacher for many years, I can certainly state that  
7 such work would not have been acceptable even in one of my home economics  
8 classes, much less from a highly compensated Receiver.

9 I declare under penalty of perjury under the laws of the State of California that  
10 the foregoing is true and correct and if called upon to testify in this matter, I could and  
11 would testify as set forth above.

12 This Declaration is made this 4<sup>th</sup> day of October, 2013, in Redlands, California.

13  
14 /s/ Sandra Hayes

15 Sandra Hayes  
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# EXHIBIT 1

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**COPELAND REALTY INC.**

Donald E. Copeland  
Broker

*A Real Estate Investment Corporation*

Lic. 01366827

May 3, 2005

RE: Copeland Properties Three L.P.

To: All Limited Partners

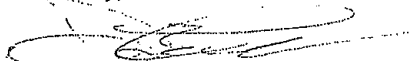
In November IRS gave notice of its intention to leave our building May 3, 2005 and they have done so. This check is the last distribution that will be available for the foreseeable future. In December of 2004 we contracted with CBRE in Sacramento, which is a large commercial leasing firm, to help us in our search for a replacement tenant. They have shown the property several times and are actively marketing it.

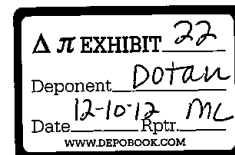
As General Partners our pledge to you was for us not to profit unless the Limited Partners received at least 6% return on their investment each year. Exhibit A shows the distributions paid out to each Limited Partner, including this month's check, have provided a 6% return through November 25, 2005. It is our intention to suspend monthly distributions checks until that date. If we do not have a tenant(s) in place by then we will offer to purchase your Limited Partnership interest in accordance with Exhibit B. There will not be any requests for Limited Partners to make a payment until after November 25, 2005.

Copeland Realty will make a subordinated loan to the Partnership to cover all costs until the property covers its costs. This loan will be subordinated to the first mortgage and to all Limited Partners initial contributions.

This letter only lays out the issues and a brief recap of our plan. We have scheduled Wednesday May 25<sup>th</sup> at 7:00 p.m. at The Copeland Group for a meeting of all interested Limited Partners. This is to go over our planning and your options in more detail.

Sincerely,

  
Donald E. Copeland



25809 Business Center Drive, Suite B • Redlands, California 92374 • (909) 799-8580 • Cell (909) 709-6568  
don@copelandrealty.com • www.copelandrealty.com

SH 0013

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Exhibit A

Total Partner Contributions:	\$2,150,003.88
6% Return of Contributions:	\$129,000.23
divided by 12 months equals:	\$10,750.02 per month
Total Year to date Partner Distributions:	<u>\$179,166.99</u>
divided by \$10,750.02 equals:	16.67 months

At the amount already paid to the Partners, it will take 16.67 months from the date we closed on the property, July 7<sup>th</sup>, 2004, for the return to get to 6%.

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25809 Business Center Drive, Suite B • Redlands, California 92374 • (909) 799-8580 • Fax (909) 799-6501  
www.copelandrealty.com

SH 0014

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Exhibit B

Purchase Price: 100% of your Investment,

Terms: 6% interest only for one year, then all due and payable.  
(special terms for New Tax Free Exchange for those wanting one.)

Option: Can buy back in during this one year period.

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25809 Business Center Drive, Suite B • Redlands, California 92374 • (909) 799-8580 • Fax (909) 799-6501  
www.copelandrealty.com

SH 0015

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## Exhibit 2

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Dear Copeland Properties 18 Partners,

It has come to our attention that there is an error in the Limited Partnership Agreement. In Section 4.02.2 of our Limited Partnership Agreement it reads as follows"

4.02.2 Next the General Partner shall receive payment for services not to exceed .5% of the initial Limited Partners capital contribution.

Instead it should read as follows:

4.02.2 Next the General Partner shall receive payment for services not to exceed .5% of the property purchase price.

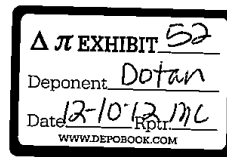
The first statement is what we use in limited partnerships for fixed incomes where the initial partner contribution is the total value of the asset. The second statement is what we use in our real estate limited partnerships. If you recall in your our prospectus sheet (attached) we show Management & Other Expenses to be \$45,500 annually which is the calculation of the original purchase price \$9,100,000 times ½ of 1 percent.

In creating the partnership agreement the error was made that the .5% of partner capital was used for a real estate limited partnership instead of the normal .5% of purchase price.

In order to make changes to the limited partnership agreement and correct this typing error we need the limited partners to approve the change. Please email me [don@copelandrealty.com](mailto:don@copelandrealty.com) stating that you are approving the change to the partnership agreement.

Sincerely,

Don Copeland  
760-699-8190



SH 0007

1 Robert H. Ziprick, SBN 069571  
2 William F. Ziprick, SBN 096270  
3 **ZIPRICK & CRAMER, LLP**  
4 707 Brookside Avenue  
5 Redlands, California 92373  
6 Telephone (909) 798-5005 / Facsimile (909) 793-8944

7 Attorneys for Janet Ihde, Charles Schwab FBO Janet Ihde IRA,  
8 Sandra Hayes, Melvyn and Ruth Ross, Melvyn and Ruth Ross  
9 Revocable Trust, Joseph and Beth Dotan, Dotan Family Trust

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 v.

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

23 Defendants.  
24

25 } Case No.: 2:11-cv-08607-R-DTB  
26 } **DECLARATION OF JOSEPH  
27 } DOTAN IN SUPPORT OF  
28 } OBJECTING LPS' SUR-REPLY TO  
} RECEIVER'S REPLY TO  
} OBJECTING LPS' OPPOSITION  
} TO RECEIVER'S MOTION FOR  
} ORDER: (1) APPROVING THE  
} RECEIVER'S DISTRIBUTION OF  
} ASSETS TO THE INVESTORS OF  
} COPELAND PROPERTIES 18,  
} L.P.; AND (2) AUTHORIZING  
} TERMINATION AND  
} CANCELLATION OF COPELAND  
} PROPERTIES 18, L.P. AS AN  
} ENTITY**

25 } Date: October 21, 2013  
26 } - Time: 10:00 a.m.  
27 } Ctrm: 8, 2nd Floor  
28 } Judge: Hon. Manuel L. Real

28 I, Joseph Dotan, declare as follows:

1           1.     I am over the age of eighteen (18) years old.

2           2.     I have personal knowledge of the matters set forth herein, except as to  
3 those matters stated on information and belief, and as to those matters, I believe them  
4 to be true. If called upon as a witness, I could and would competently testify thereto.

5           3.     My background is as a physician. I retired some years ago, but because  
6 of losing almost all of our savings because of the Copeland fiasco, I have come back  
7 out of retirement and presently work as a medical advisor, while my wife is also  
8 working because of the losses we incurred.

9           4.     I am a trustee and beneficiary of the Dotan Family Trust (“Trust”).

10          5.     The physical, mental and financial strain from what my wife and I have  
11 gone through because of the actions of Chuck Copeland and Copeland Realty, Inc.  
12 (“CRI”) regarding the Trust’s investments in Copeland Properties Three, L.P. (“CP3”)  
13 [and ultimate involvement in Copeland Properties 14, L.P. (“CP14”)/Copeland  
14 Properties 18, L.P. (“CP18”)] and other Copeland entities, has been incredibly  
15 draining. Between financial losses, contingent liabilities and attorney’s fees to defend  
16 ourselves, it has drastically and negatively impacted our quality of life, and created  
17 great uncertainty for our future.

18          6.     Based on information and belief, it is now my understanding that CRI  
19 sent out to the Limited Partners of CP3, of which the Trust was one, the  
20 memorandum/contractual commitment dated May 3, 2005, from Don Copeland for  
21 CRI (“Loan Subordination Agreement”), a copy of which is attached hereto as Exhibit  
22 1 and incorporated herein by this reference. Further based on information and belief,  
23 it is now my understanding that the IRS some months previously had notified the  
24 Managing General Partner of CP3, CRI, of its intention to terminate its lease at the  
25 building owned by CP3 in Rancho Cordova, California, all as of May 3, 2005.

26          7.     It is my understanding that through the Loan Subordination Agreement,  
27 CRI committed and agreed to loan funds to CP3, which loans would be subordinated  
28



1 to the Limited Partners receiving all of their capital contributions back, with the Trust  
2 capital contribution to CP3 being \$215,000.

3 8. The May 3, 2005, Loan Subordination Agreement, confirms CRI's  
4 pledge to the Limited Partners that it would not profit unless the Limited Partners had  
5 first received a 6% annual return on their investment.

6 9. I did not know anything about CRI purchasing another parcel ("Wrap  
7 Around Parcel"), which I am now informed and believe was adjacent to the building  
8 and parcel in Rancho Cordova, California, owned by CP3 ("CP3 Building"). I do not  
9 know whether CRI, in some form or fashion, ultimately had CP3 effectively pay for  
10 some or all of the expenditures for this Wrap Around Parcel, even though I am  
11 informed and believe that CRI put title to this Wrap Around Parcel in its own name.  
12 It seems to me that this was a clear conflict of interest on the part of the Managing  
13 General Partner of CP3 to purchase this Wrap Around Parcel without informing the  
14 CP3 Limited Partners about this parcel, and giving CP3 an opportunity to purchase  
15 this Wrap Around Parcel, itself.

16 10. I am now informed and believe that when CRI sold the Wrap Around  
17 Parcel along with the CP3 Building at the same time in 2007, even though I did not  
18 realize it at the time. I am now informed and believe that CRI unilaterally transferred  
19 to itself what it claimed was its share of the sale proceeds (by increasing CP3's debt to  
20 CRI), even though none of the details were ever presented to the Limited Partners of  
21 CP3 for our approval, as was required by the Partnership Agreement, recognizing that  
22 this was also a conflict of interest on CRI's part. As I was never told about these  
23 details, I am fairly certain that I never was asked by CRI to approve of this and never  
24 did approve these things. If asked to approve, under the circumstances, I would have  
25 liked to know the value of the Wrap Around Parcel, the basis for any allocation of the  
26 sale proceeds to CRI, had CRI pay its fair share of the ongoing costs and sale related  
27

28

1 costs, and were there other documents or commitments that had been made which  
2 would affect my decision.

3 11. I had never heard of the entity Tri Tool until in 2011 when I was served  
4 with a lawsuit from Tri Tool, which I understand alleges that I improperly received  
5 partnership distributions from CP3. I had no knowledge that there was a contingent  
6 liability note from CP3 to Tri Tool based upon an unrecorded easement, of which I  
7 had never previously heard of or had any discussions about with anyone until after  
8 being sued.

9 12. Until rather recently, I had never heard about a \$1,800,000 loan being  
10 made to CP3 by any bank, or that these funds, I am informed and believe, were  
11 subsequently loaned to CP14, and then on to CP18.

12 13. Considering the terribly harmful and wrongful things which I now  
13 understand that Chuck Copeland and CRI have done, it is very wrong, in my opinion,  
14 that the Receiver would even attempt to charge CP18 for management fees for such  
15 activities. To add insult to injury, I understand that the Receiver is attempting to  
16 charge and collect interest on such management fees, all at the same time that the  
17 CP18 Limited Partners will be losing very significant amounts of their initial capital  
18 investments.

19 14. To the best of my recollection, I never approved amending the  
20 Partnership Agreement of CP18 to increase the management fees paid to CRI from  
21 CP18, or signed any such Partnership Agreement amendment, or ever emailed my  
22 approval of such amendment to the Partnership Agreement.

23 15. I had no knowledge, until very recently, and I am now informed and  
24 believe: (1) that CRI, as the Managing General Partner of CP3, had CP3 make a loan  
25 of approximately \$423,000 to CP18 in 2007, and (2) that CRI had attempted to  
26 transfer this valuable note to itself, without the approval from the Limited Partners of  
27 CP3. I now understand that this would have been required under the CP3 Partnership  
28

1 Agreement prior to any such transfer, which I understand was designed for the  
2 protection for the Limited Partners. You don't have to be a lawyer to know that it is  
3 wrong and a major conflict of interest for CRI to attempt to transfer such a note to  
4 itself, without ever even informing any of us Limited Partners, much less getting our  
5 required approval. To the best of my knowledge, I never gave any approval for such  
6 attempted transfer of the \$423,000 note to CRI.

7 16. I was never aware until recently that CRI had charged a \$700,000 fee to  
8 CP18 for assigning CRI's right to purchase a property in North Carolina to CP18. I  
9 also did not know that this fee was the basis for the equity interests issued to CRI in  
10 CP18, and that in reality, CRI did not put in any cash for this equity interests in CP18.

11 17. I was personally offended that the Receiver stated in its Receiver's Reply  
12 that "Opposing Partners once more are attempting to maximize their good fortune by  
13 compounding the misfortune of others." (Document 356-Receiver's Reply, page 19,  
14 lines 1&2). The Receiver has not lost any money over the Copeland fiasco, but has  
15 only made money, with every dime that the Receiver, his attorneys and accountants  
16 charge being paid out of what is left of investor's money, which in turn causes more  
17 loss to the investors. Yet I certainly don't see the Receiver offering to provide these  
18 services for free, but I am informed and believe that the Receiver charges for all time  
19 spent, even when the time is spent opposing the legitimate and lawful rights of  
20 Limited Partners, such as in CP3 and CP18. If the Receiver had personally lived  
21 through the nightmare that the Limited Partners have experienced over these past  
22 years, I do not think that the Receiver would so cavalierly state that this has been our  
23 "good fortune". Nothing could be further from the truth, and I greatly resent the  
24 implication that the Receiver makes that we are "once more," attempting to cause the  
25 misfortune of others, when we have been such victims ourselves.

26 18. If presented with the opportunity to vote for or against the \$423,000 note  
27 transfer to CRI, particularly with the facts I have now learned and understand, I would  
28

1 never have voted for such a transfer, as it would have violated binding commitments  
2 that I understand were made to me on behalf of the Trust and the other Limited  
3 Partners of CP3 by CRI and Chuck Copeland. These commitments included CRI's  
4 promise that we would be fully repaid our initial investment before any loan to CRI  
5 was repaid.

6 19. I was personally sued by Tri Tool in April, 2011, and as I understand it,  
7 they alleged that I (in reality, as trustee of the Trust) was not entitled to receive  
8 distributions that the Trust received, even though I received no cash distributions from  
9 the property sale made by CP3 in April, 2007. Until the completion of the Tri Tool  
10 litigation, I will not know if I will be required to return any of the partnership  
11 distribution I received from CP3. This means that I have not really received all my  
12 initial capital contribution in CP3, as I have a potential contingent liability outstanding  
13 against the distribution I received of the initial contribution.

14 20. My entire career I worked as a physician, and obviously not as an  
15 accountant. Yet I still cannot understand why on so many issues in dispute that the  
16 Receiver, and his numerous attorneys and accountants appear to have not done basic  
17 verification work to confirm the facts, such as talking to the investors, quizzing the  
18 Copelands to determine the truth, and reviewing all the relevant documents to  
19 determine the true facts. Instead, it appears that the Receiver oftentimes simply relied  
20 on whatever the Copelands placed in the accounting records, especially when this  
21 benefits the Receiver's Estate, to the detriment of individuals who are Limited  
22 Partners in partnerships such as CP3 and CP18, who I understand the Receiver is also  
23 to protect and represent. As Limited Partners, are we not entitled to fundamental  
24 fairness and justice?  
25

26 21. The Receiver refers to the understandable frustration of the Objecting  
27 LPs. The greatest frustration of the Objecting LPs is when the Receiver does not do  
28 his job well, and then spends our own money fighting us, all the while we are forced

1 to use our own remaining precious resources to do the job the Receiver should have  
2 done and thus are paying twice for it.

3 22. It is greatly troubling to me that this Receiver asked the Court to blindly  
4 follow accounting records, and to ignore other critical documents which conclusively  
5 and repeatedly demonstrate that such accounting records were not accurate. Is that not  
6 what a proper investigation should be, to accurately determine the truth on such issues  
7 as what management fees are owed by CP18, if any (by reviewing, among other  
8 things, the underlying contract which is the basis for any liability owed to CRI), to  
9 determine if the various requirements for the attempted transfer by CRI of a large  
10 asset (a \$423,000 note of CP3's) to itself were met, and on other matters, as well?

11 23. I don't believe it is too much to ask of the Receiver that he be paying  
12 attention when he does look at a document. In the Receiver's Declaration (document  
13 356-1, ¶ 37, lines 12-16), the Receiver makes reference to the Limited Partnership  
14 Agreement of CP3, and states that a copy of said Limited Partnership Agreement is  
15 attached as Exhibit 15 to the Receiver's Declaration. However, when you turn to  
16 Exhibit 15, not only is it not the Limited Partnership Agreement of CP3, instead it is  
17 an unsigned copy of the Limited Partnership Agreement of CP 18. Even a cursory  
18 review of the first page of that document should make this abundantly clear to anyone.  
19 It specifically refers to "Copeland Properties 18, L.P. in two different spots on the first  
20 page (initial recital and in ¶ 1.02) as well as having an extensive discussion in the "2<sup>nd</sup>  
21 WHEREAS" concerning the underlying financing of the property in North Carolina to  
22 be acquired by CP 18.  
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24 I declare under penalty of perjury under the laws of the State of California that  
25 the foregoing is true and correct and if called upon to testify in this matter, I could and  
26 would testify as set forth above.

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This Declaration is made this 7th day of October, 2013, in Washington, D.C.,  
California.

/s/ Joseph Dotan  
Joseph Dotan

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# EXHIBIT 1

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**COPELAND REALTY INC.**

Donald E. Copeland  
Broker

*A Real Estate Investment Corporation*

Lic. 01366827

May 3, 2005

RE: Copeland Properties Three L.P.

To: All Limited Partners

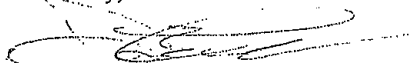
In November IRS gave notice of its intention to leave our building May 3, 2005 and they have done so. This check is the last distribution that will be available for the foreseeable future. In December of 2004 we contracted with CBRE in Sacramento, which is a large commercial leasing firm, to help us in our search for a replacement tenant. They have shown the property several times and are actively marketing it.

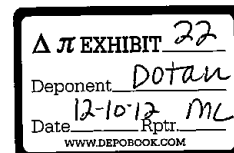
As General Partners our pledge to you was for us not to profit unless the Limited Partners received at least 6% return on their investment each year. Exhibit A shows the distributions paid out to each Limited Partner, including this month's check, have provided a 6% return through November 25, 2005. It is our intention to suspend monthly distributions checks until that date. If we do not have a tenant(s) in place by then we will offer to purchase your Limited Partnership interest in accordance with Exhibit B. There will not be any requests for Limited Partners to make a payment until after November 25, 2005.

Copeland Realty will make a subordinated loan to the Partnership to cover all costs until the property covers its costs. This loan will be subordinated to the first mortgage and to all Limited Partners initial contributions.

This letter only lays out the issues and a brief recap of our plan. We have scheduled Wednesday May 25<sup>th</sup> at 7:00 p.m. at The Copeland Group for a meeting of all interested Limited Partners. This is to go over our planning and your options in more detail.

Sincerely,

  
Donald E. Copeland



25809 Business Center Drive, Suite B • Redlands, California 92374 • (909) 799-8580 • Cell (909) 709-6568  
don@copelandrealty.com • www.copelandrealty.com

SH 0013



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Exhibit A

Total Partner Contributions:	\$2,150,003.88
6% Return of Contributions:	\$129,000.23
divided by 12 months equals:	\$10,750.02 per month
Total Year to date Partner Distributions:	<u>\$179,166.99</u>
divided by \$10,750.02 equals:	16.67 months

At the amount already paid to the Partners, it will take 16.67 months from the date we closed on the property, July 7<sup>th</sup>, 2004, for the return to get to 6%.

25809 Business Center Drive, Suite B • Redlands, California 92374 • (909) 799-8580 • Fax (909) 799-6501  
www.copelandrealty.com

SH 0014

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Exhibit B

Purchase Price: 100% of your Investment,

Terms: 6% interest only for one year, then all due and payable.  
(special terms for New Tax Free Exchange for those wanting one.)

Option: Can buy back in during this one year period.

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25809 Business Center Drive, Suite B • Redlands, California 92374 • (909) 799-8580 • Fax (909) 799-6501  
www.copelandrealty.com

SH 0015

22-2

1 Robert H. Ziprick, SBN 069571  
2 William F. Ziprick, SBN 096270  
3 **ZIPRICK & CRAMER, LLP**  
4 707 Brookside Avenue  
5 Redlands, California 92373  
6 Telephone (909) 798-5005 / Facsimile (909) 793-8944

7 Attorneys for Janet Ihde, Charles Schwab FBO Janet Ihde IRA,  
8 Sandra Hayes, Melvyn and Ruth Ross, Melvyn and Ruth Ross  
9 Revocable Trust, Joseph and Beth Dotan, Dotan Family Trust

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 v.

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

23 Defendants.  
24

25 } Case No.: 2:11-cv-08607-R-DTB  
26 } **DECLARATION OF MELVYN  
27 } ROSS IN SUPPORT OF  
28 } OBJECTING LPS' SUR-REPLY TO  
} RECEIVER'S REPLY TO  
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} CANCELLATION OF COPELAND  
} PROPERTIES 18, L.P. AS AN  
} ENTITY**

25 } Date: October 21, 2013  
26 } - Time: 10:00 a.m.  
27 } Ctrm: 8, 2<sup>nd</sup> Floor  
28 } Judge: Hon. Manuel L. Real

28 I, Melvyn Ross, declare as follows:

1           1.     I am over the age of eighteen (18) years old.

2           2.     I have personal knowledge of the matters set forth herein, except as to  
3 those matters stated on information and belief, and as to those matters, I believe them  
4 to be true. If called upon as a witness, I could and would competently testify thereto.

5           3.     I am a practicing physician. I am also a trustee and beneficiary of the  
6 Melvyn & Ruth Ross Revocable Trust (“Trust”).

7           4.     Based upon the physical, mental and financial strain from what my wife  
8 and I have gone through because of the actions of Chuck Copeland and Copeland  
9 Realty, Inc. (“CRI”) regarding the Trust’s investments in Copeland Properties Three,  
10 L.P. (“CP3”) [and ultimate involvement in Copeland Properties 14, L.P.  
11 (“CP14”)/Copeland Properties 18, L.P. (“CP18”)] and other Copeland entities, has  
12 been incredibly draining. The Trust has lost well in excess of \$500,000, a huge loss.  
13 Between these huge losses, contingent liabilities and attorney’s fees to defend  
14 ourselves, it has drastically and negatively impacted our quality of life, and created  
15 great uncertainty for our future.

16           5.     I remember receiving the memorandum/contractual commitment dated  
17 May 3, 2005, from Don Copeland for CRI (“Loan Subordination Agreement”), which  
18 is attached hereto as Exhibit 1 and incorporated herein by this reference. Based on  
19 information and belief, it is now my understanding that the IRS some months  
20 previously had notified the Managing General Partner of CP3, CRI, of its intention to  
21 terminate its lease at the building owned by CP3 in Rancho Cordova, California, all as  
22 of May 3, 2005.

23           6.     It is my understanding that through the Loan Subordination Agreement,  
24 CRI committed and agreed to loan funds to CP3, which loans would be subordinated  
25 to the Limited Partners receiving all of their capital contributions back, with the Trust  
26 capital contribution to CP3 being \$215,000.  
27

28

1           7. I also specifically remember that as part of my investment in CP3, that  
2 Chuck Copeland, on behalf of CRI (the managing general partner of CP3) guaranteed  
3 that all of the investors would receive at least a 6% return on their funds, and that any  
4 compensation and/or profit which CRI would receive would only be after the various  
5 investors have received their minimum 6% rate of return first. This commitment from  
6 CRI to all of us Limited Partners in CP3 was also again confirmed in the May 3, 2005,  
7 Loan Subordination Agreement.

8           8. I did not know anything about CRI purchasing another parcel (“Wrap  
9 Around Parcel”), which I am now informed and believe was adjacent to the building  
10 and parcel in Rancho Cordova, California, owned by CP3 (“CP3 Building”). I do not  
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13 informed and believe that CRI put title to this Wrap Around Parcel in its own name.  
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15 General Partner of CP3 to purchase this Wrap Around Parcel without informing the  
16 CP3 Limited Partners about this parcel, and giving CP3 an opportunity to purchase  
17 this Wrap Around Parcel, itself.

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9 they alleged that I (in reality, as trustee of the Trust) was not entitled to receive  
10 distributions that the Trust received, even though I received no cash distributions from  
11 the property sale made by CP3 in April, 2007. Until the completion of the Tri Tool  
12 litigation, I will not know if I will be required to return any of the partnership  
13 distribution I received from CP3. This means that I have not really received all my  
14 initial capital contribution in CP3, as I have a potential contingent liability outstanding  
15 against the distribution I received of the initial contribution.

16           19. My entire career I worked as a physician, and obviously not as an  
17 accountant. Yet I still cannot understand why on so many issues in dispute that the  
18 Receiver, and his numerous attorneys and accountants appear to have not done basic  
19 verification work to confirm the facts, such as talking to the investors, quizzing the  
20 Copelands to determine the truth, and reviewing all the relevant documents to  
21 determine the true facts. Instead, it appears that the Receiver oftentimes simply relied  
22 on whatever the Copelands placed in the accounting records, especially when this  
23 benefits the Receiver's Estate, to the detriment of individuals who are Limited  
24 Partners in partnerships such as CP3 and CP18, who I understand the Receiver is also  
25 to protect and represent. As Limited Partners, are we not entitled to fundamental  
26 fairness and justice?  
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1           20.    The Receiver refers to the understandable frustration of the Objecting  
2 LPs. The greatest frustration of the Objecting LPs is when the Receiver does not do  
3 his job well, and then spends our own money fighting us, all the while we are forced  
4 to use our own remaining precious resources to do the job the Receiver should have  
5 done and thus are paying twice for it.

6           21.    It is greatly troubling to me that this Receiver asked the Court to blindly  
7 follow accounting records, and to ignore other critical documents which conclusively  
8 and repeatedly demonstrate that such accounting records were not accurate. Is that not  
9 what a proper investigation should be, to accurately determine the truth on such issues  
10 as what management fees are owed by CP18, if any (by reviewing, among other  
11 things, the underlying contract which is the basis for any liability owed to CRI), to  
12 determine if the various requirements for the attempted transfer by CRI of a large  
13 asset (a \$423,000 note of CP3's) to itself were met, and on other matters, as well?

14           22.    I don't believe it is too much to ask of the Receiver that he be paying  
15 attention when he does look at a document. In the Receiver's Declaration (document  
16 356-1, ¶ 37, lines 12-16), the Receiver makes reference to the Limited Partnership  
17 Agreement of CP3, and states that a copy of said Limited Partnership Agreement is  
18 attached as Exhibit 15 to the Receiver's Declaration. However, when you turn to  
19 Exhibit 15, not only is it not the Limited Partnership Agreement of CP3, instead it is  
20 an unsigned copy of the Limited Partnership Agreement of CP 18. Even a cursory  
21 review of the first page of that document should make this abundantly clear to anyone.  
22 It specifically refers to "Copeland Properties 18, L.P. in two different spots on the first  
23 page (initial recital and in ¶ 1.02) as well as having an extensive discussion in the "2<sup>nd</sup>  
24 WHEREAS" concerning the underlying financing of the property in North Carolina to  
25 be acquired by CP 18.  
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and if called upon to testify in this matter, I could and would testify as set forth above.

This Declaration is made this 7th day of October, 2013, in Newport Beach, California.

/s/ Melvyn Ross  
Melvyn Ross

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# EXHIBIT 1

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**COPELAND REALTY INC.**

Donald E. Copeland  
Broker

*A Real Estate Investment Corporation*

Lic. 01366827

May 3, 2005

RE: Copeland Properties Three L.P.

To: All Limited Partners

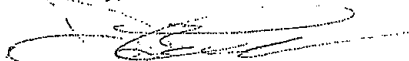
In November IRS gave notice of its intention to leave our building May 3, 2005 and they have done so. This check is the last distribution that will be available for the foreseeable future. In December of 2004 we contracted with CBRE in Sacramento, which is a large commercial leasing firm, to help us in our search for a replacement tenant. They have shown the property several times and are actively marketing it.

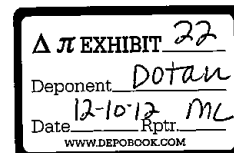
As General Partners our pledge to you was for us not to profit unless the Limited Partners received at least 6% return on their investment each year. Exhibit A shows the distributions paid out to each Limited Partner, including this month's check, have provided a 6% return through November 25, 2005. It is our intention to suspend monthly distributions checks until that date. If we do not have a tenant(s) in place by then we will offer to purchase your Limited Partnership interest in accordance with Exhibit B. There will not be any requests for Limited Partners to make a payment until after November 25, 2005.

Copeland Realty will make a subordinated loan to the Partnership to cover all costs until the property covers its costs. This loan will be subordinated to the first mortgage and to all Limited Partners initial contributions.

This letter only lays out the issues and a brief recap of our plan. We have scheduled Wednesday May 25<sup>th</sup> at 7:00 p.m. at The Copeland Group for a meeting of all interested Limited Partners. This is to go over our planning and your options in more detail.

Sincerely,

  
Donald E. Copeland



25809 Business Center Drive, Suite B • Redlands, California 92374 • (909) 799-8580 • Cell (909) 709-6568  
don@copelandrealty.com • www.copelandrealty.com

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Exhibit A

Total Partner Contributions:	\$2,150,003.88
6% Return of Contributions:	\$129,000.23
divided by 12 months equals:	\$10,750.02 per month
Total Year to date Partner Distributions:	<u>\$179,166.99</u>
divided by \$10,750.02 equals:	16.67 months

At the amount already paid to the Partners, it will take 16.67 months from the date we closed on the property, July 7<sup>th</sup>, 2004, for the return to get to 6%.

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Exhibit B

Purchase Price: 100% of your Investment,

Terms: 6% interest only for one year, then all due and payable.  
(special terms for New Tax Free Exchange for those wanting one.)

Option: Can buy back in during this one year period.

---

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www.copelandrealty.com

SH 0015

22-2

1 Robert H. Ziprick, SBN 069571  
2 William F. Ziprick, SBN 096270  
3 **ZIPRICK & CRAMER, LLP**  
4 707 Brookside Avenue  
5 Redlands, California 92373  
6 Telephone (909) 798-5005 / Facsimile (909) 793-8944

7 Attorneys for Janet Ihde, Charles Schwab FBO Janet Ihde IRA,  
8 Sandra Hayes, Melvyn and Ruth Ross, Melvyn and Ruth Ross  
9 Revocable Trust, Joseph and Beth Dotan, Dotan Family Trust

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 v.

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

23 Defendants.  
24

Case No.: 2:11-cv-08607-R-DTB

**DECLARATION OF JANET IHDE  
IN SUPPORT OF OBJECTING  
LPS' SUR-REPLY TO  
RECEIVER'S REPLY TO  
OBJECTING LPS' OPPOSITION  
TO RECEIVER'S MOTION FOR  
ORDER: (1) APPROVING THE  
RECEIVER'S DISTRIBUTION OF  
ASSETS TO THE INVESTORS OF  
COPELAND PROPERTIES 18,  
L.P.; AND (2) AUTHORIZING  
TERMINATION AND  
CANCELLATION OF COPELAND  
PROPERTIES 18, L.P. AS AN  
ENTITY**

25 Date: October 21, 2013

26 - Time: 10:00 a.m.

27 Ctrm: 8, 2<sup>nd</sup> Floor

Judge: Hon. Manuel L. Real

28 I, Janet Ihde, declare as follows:

1           1.     I am over the age of eighteen (18) years old.

2           2.     I have personal knowledge of the matters set forth herein, except as to  
3 those matters stated on information and belief, and as to those matters, I believe them  
4 to be true. If called upon as a witness, I could and would competently testify thereto.

5           3.     In prior declarations to this Court, I have described in some detail the  
6 great physical, mental and financial strain which the whole Copeland fiasco have  
7 placed upon me.

8           4.     As stated in a prior declaration, the investment in Copeland Properties  
9 Three, L. P. (“CP3”) was made from an account at Charles Schwab entitled “Charles  
10 Schwab FBO Janet Ihde IRA” (“IRA”).

11          5.     I remember receiving the memorandum/contractual commitment dated  
12 May 3, 2005 (“Loan Subordination Agreement”), from Don Copeland for Copeland  
13 Realty, Inc., (“CRI”), the General Partner for CP3, which is attached hereto as  
14 Exhibit 1 and incorporated herein by this reference. Based on information and belief,  
15 it is now my understanding that the IRS some months previously had notified CRI, of  
16 its intention to terminate its lease at the building owned by CP3 in Rancho Cordova,  
17 California, all as of May 3, 2005.

18          6.     It is my understanding that through the Loan Subordination Agreement,  
19 CRI committed and agreed to loan funds to CP3, which loans would be subordinated  
20 to the Limited Partners receiving all of their capital contributions back, with the IRA’s  
21 capital contribution to CP3 being \$215,000.

22          7.     I also specifically remember that as part of the IRA’s investment in CP3,  
23 that Chuck Copeland, on behalf of CRI (the managing general partner of CP3)  
24 guaranteed that all of the investors would receive at least a 6% return on their funds,  
25 and that any compensation and/or profit which CRI would receive would only be after  
26 the various investors have received their minimum 6% rate of return first. This  
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28



1 commitment from CRI to all of the Limited Partners in CP3 was also again confirmed  
2 in the May 3, 2005, Loan Subordination Agreement.

3 8. I did not know anything about CRI purchasing another parcel (“Wrap  
4 Around Parcel”), which I am now informed and believe was adjacent to the building  
5 and parcel in Rancho Cordova, California, owned by CP3 (“CP3 Building”). I do not  
6 know whether CRI, in some form or fashion, ultimately had CP3 effectively pay for  
7 some or all of the expenditures for this Wrap Around Parcel, even though I am  
8 informed and believe that CRI put title to this Wrap Around Parcel in its own name.  
9 It seems to me that this was a clear conflict of interest on the part of the Managing  
10 General Partner of CP3 to purchase this Wrap Around Parcel without informing the  
11 CP3 Limited Partners about this parcel, and giving CP3 an opportunity to purchase  
12 this Wrap Around Parcel, itself.

13 9. I am now informed and believe that when CRI sold the Wrap Around  
14 Parcel along with the CP3 Building at the same time in 2007, even though I did not  
15 realize it at the time. I am now informed and believe that CRI unilaterally transferred  
16 to itself what it claimed was its share of the sale proceeds (by increasing CP3’s debt to  
17 CRI), even though none of the details were ever presented to the Limited Partners of  
18 CP3 for our approval, as was required by the Partnership Agreement, recognizing that  
19 this was also a conflict of interest on CRI’s part. As I was never told about these  
20 details, I am fairly certain that I never was asked by CRI to approve of this and never  
21 did approve these things. If asked to approve, under the circumstances, I would have  
22 liked to know the value of the Wrap Around Parcel, the basis for any allocation of the  
23 sale proceeds to CRI, had CRI pay its fair share of the ongoing costs and sale related  
24 costs, and were there other documents or commitments that had been made which  
25 would affect my decision.

26 10. I had never heard of the entity Tri Tool until in 2011 when the IRA was  
27 named as a defendant in a lawsuit from Tri Tool, which I understand alleges that IRA  
28

1 improperly received partnership distributions from CP3. I had no knowledge that  
2 there was a contingent liability note from CP3 to Tri Tool based upon an unrecorded  
3 easement, of which I had never previously heard of or had any discussions about with  
4 anyone until after being sued.

5 11. Until rather recently, I had never heard about a \$1,800,000 loan being  
6 made to CP3 by any bank, or that these funds, I am informed and believe, were  
7 subsequently loaned to CP14, and then on to CP18.

8 12. Considering the terribly harmful and wrongful things which I now  
9 understand that Chuck Copeland and CRI have done, it is very wrong, in my opinion,  
10 that the Receiver would even attempt to charge CP18 for management fees for such  
11 activities. To add insult to injury, I understand that the Receiver is attempting to  
12 charge and collect interest on such management fees, all at the same time that the  
13 CP18 Limited Partners will be losing very significant amounts of their initial capital  
14 investments.

15 13. To the best of my recollection, I, on behalf of the IRA, never approved  
16 amending the Partnership Agreement of CP18 to increase the management fees paid to  
17 CRI from CP18, or signed any such Partnership Agreement amendment, or ever  
18 emailed an approval of such amendment to the Partnership Agreement.

19 14. I had no knowledge, until very recently, and I am now informed and  
20 believe: (1) that CRI, as the Managing General Partner of CP3, had CP3 make a loan  
21 of approximately \$423,000 to CP18 in 2007, and (2) that CRI had attempted to  
22 transfer this valuable note to itself, without the approval from the Limited Partners of  
23 CP3. I now understand that this would have been required under the CP3 Partnership  
24 Agreement prior to any such transfer, which I understand was designed for the  
25 protection for the Limited Partners. You don't have to be a lawyer to know that it is  
26 wrong and a major conflict of interest for CRI to attempt to transfer such a note to  
27 itself, without ever even informing any of the Limited Partners, much less getting the  
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1 required approval. To the best of my knowledge, I, on behalf of the IRA, never gave  
2 any approval for such attempted transfer of the \$423,000 note to CRI.

3 15. I was never aware until recently that CRI had charged a \$700,000 fee to  
4 CP18 for assigning CRI's right to purchase a property in North Carolina to CP18. I  
5 also did not know that this fee was the basis for the equity interests issued to CRI in  
6 CP18, and that in reality, CRI did not put in any cash for this equity interests in CP18.

7 16. I was insulted that the Receiver stated in its Receiver's Reply that  
8 "Opposing Partners once more are attempting to maximize their good fortune by  
9 compounding the misfortune of others." (Document 356-Receiver's Reply, p. 19, lines  
10 1&2). The Receiver has not lost any money over the Copeland fiasco, but has only  
11 made money, with every dime that the Receiver, his attorneys and accountants charge  
12 being paid out of what is left of investor's money, which in turn causes more loss to  
13 the investors. Yet I certainly don't see the Receiver offering to provide these services  
14 for free, but I am informed and believe that the Receiver charges for all time spent,  
15 even when the time is spent opposing the legitimate and lawful rights of Limited  
16 Partners, such as in CP3 and CP18. If the Receiver had personally lived through the  
17 nightmare that the Limited Partners have experienced over these past years, I do not  
18 think that the Receiver would so cavalierly state that this has been our "good fortune".  
19 Nothing could be further from the truth, and I greatly resent the implication that the  
20 Receiver makes that we are "once more," attempting to cause the misfortune of others,  
21 when we have been such victims ourselves.

22 17. If presented with the opportunity to vote for or against the \$423,000 note  
23 transfer to CRI, particularly with the facts I have now learned and understand, I, on  
24 behalf of the IRA, would never have voted for such a transfer, as it would have  
25 violated binding commitments that I understand were made to the Limited Partners of  
26 CP3 by CRI and Chuck Copeland. These commitments included CRI's promise that  
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28

1 the Limited Partners would be fully repaid their initial investments before any loan to  
2 CRI was repaid.

3 18. IRA was sued by Tri Tool in April, 2011, and as I understand it, they  
4 alleged that IRA was not entitled to receive distributions that the IRA received, even  
5 though IRA received no cash distributions from the property sale made by CP3 in  
6 April, 2007. Until the completion of the Tri Tool litigation, I will not know if IRA  
7 will be required to return any of the partnership distribution it received from CP3.  
8 This means that IRA has not really received all its initial capital contributions in CP3,  
9 as IRA has a potential contingent liability outstanding against the distribution IRA  
10 received of the initial contribution.

11 19. My entire career I worked as a physician, and obviously not as an  
12 accountant. Yet I still cannot understand why on so many issues in dispute that the  
13 Receiver, and his numerous attorneys and accountants appear to have not done basic  
14 verification work to confirm the facts, such as talking to the investors, quizzing the  
15 Copelands to determine the truth, and reviewing all the relevant documents to  
16 determine the true facts. Instead, it appears that the Receiver oftentimes simply relied  
17 on whatever the Copelands placed in the accounting records, especially when this  
18 benefits the Receiver's Estate, to the detriment of the Limited Partners in partnerships  
19 such as CP3 and CP18, partnerships which I understand the Receiver is also to protect  
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23 20. The Receiver refers to the understandable frustration of the Objecting  
24 LPs. The greatest frustration of the Objecting LPs is when the Receiver does not do  
25 his job well, and then spends our own money fighting us, all the while we are forced  
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**COPELAND REALTY INC.**

Donald E. Copeland  
Broker

*A Real Estate Investment Corporation*

Lic. 01366827

May 3, 2005

RE: Copeland Properties Three L.P.

To: All Limited Partners

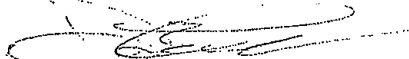
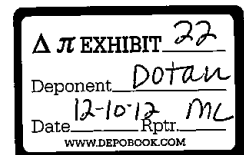
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Copeland Realty will make a subordinated loan to the Partnership to cover all costs until the property covers its costs. This loan will be subordinated to the first mortgage and to all Limited Partners initial contributions.

This letter only lays out the issues and a brief recap of our plan. We have scheduled Wednesday May 25<sup>th</sup> at 7:00 p.m. at The Copeland Group for a meeting of all interested Limited Partners. This is to go over our planning and your options in more detail.

Sincerely,

  
Donald E. Copeland

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don@copelandrealty.com • www.copelandrealty.com

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Exhibit A

Total Partner Contributions:	\$2,150,003.88
6% Return of Contributions:	\$129,000.23
divided by 12 months equals:	\$10,750.02 per month
Total Year to date Partner Distributions:	<u>\$179,166.99</u>
divided by \$10,750.02 equals:	16.67 months

At the amount already paid to the Partners, it will take 16.67 months from the date we closed on the property, July 7<sup>th</sup>, 2004, for the return to get to 6%.

---

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Exhibit B

Purchase Price: 100% of your Investment,

Terms: 6% interest only for one year, then all due and payable.  
(special terms for New Tax Free Exchange for those wanting one.)

Option: Can buy back in during this one year period.

---

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SH 0015

22-2

1 Robert H. Ziprick (SBN 069571)  
2 William F. Ziprick (SBN 096270)  
3 Jonathan R. Ziprick (SBN 283843)  
4 **ZIPRICK & CRAMER, LLP**  
5 707 Brookside Avenue  
6 Redlands, CA 92373-5101  
7 Telephone: (909) 798-5005  
8 Facsimile: (909) 793-8944

9 Attorneys for Janet Ihde, Charles Schwab FBO Janet Ihde IRA, Sandra Hayes, Melvyn  
10 and Ruth Ross, Melvyn and Ruth Ross Revocable Trust, Joseph and Beth Dotan, Dotan  
11 Family Trust

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, COPELAND  
19 WEALTH MANAGEMENT, A  
20 FINANCIAL ADVISORY  
21 CORPORATION, AND COPELAND  
22 WEALTH MANAGEMENT, A REAL  
23 ESTATE CORPORATION

24 Defendants.

Case No.: 2:11-cv-08607-R-DTB

**CERTIFICATE OF SERVICE RE:  
OBJECTING LPS' SUR-REPLY TO  
RECEIVER'S REPLY TO  
OBJECTING LPS' OPPOSITION TO  
RECEIVER'S MOTION FOR  
ORDER: (1) APPROVING THE  
RECEIVER'S DISTRIBUTION OF  
ASSETS TO THE INVESTORS OF  
COPELAND PROPERTIES 18, L.P.;  
AND (2) AUTHORIZING  
TERMINATION AND  
CANCELLATION OF COPELAND  
PROPERTIES 18, L.P. AS AN  
ENTITY; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF OPPOSITION SUR-  
REPLY**

Date: October 21, 2013  
Time: 10:00 a.m.  
Ctrm: 8, 2<sup>nd</sup> Floor  
Judge: Hon. Manuel L. Real

25  
26 I, Lorelei Kay, declare that I am a citizen of the United State and a resident of the  
27 County of San Bernardino; I am over the age of eighteen (18) years, and not a part to or  
28 interested in this action. I am an employee of Ziprick& Cramer, LLP, and my business

1 address is 707 Brookside Ave., Redlands, CA.

2 On October 7, 2013, I served the following documents:

- 3 **(1) OBJECTING LPS' SUR-REPLY TO RECEIVER'S REPLY TO**  
4 **OBJECTING LPS' OPPOSITION TO RECEIVER'S MOTION FOR**  
5 **ORDER: (1) APPROVING THE RECEIVER'S DISTRIBUTION OF**  
6 **ASSETS TO THE INVESTORS OF COPELAND PROPERTIES 18, L.P.;**  
7 **AND (2) AUTHORIZING TERMINATION AND CANCELLATION OF**  
8 **COPELAND PROPERTIES 18, L.P. AS AN ENTITY; MEMORANDUM**  
9 **OF POINTS AND AUTHORITIES IN SUPPORT OF OPPOSITION SUR-**  
10 **REPLY**  
11 **(2) DECLARATION OF WILLIAM F. ZIPRICK IN SUPPORT OF**  
12 **OBJECTING LPS' SUR-REPLY**  
13 **(3) DECLARATION OF ROBERT H. ZIPRICK IN SUPPORT OF**  
14 **OBJECTING LPS' SUR-REPLY**  
15 **(4) DECLARATION OF JANET IHDE IN SUPPORT OF OBJECTING LPS'**  
16 **SUR-REPLY**  
17 **(5) DECLARATION OF JOSEPH DOTAN IN SUPPORT OF OBJECTING**  
18 **LPS' SUR-REPLY**  
19 **(6) DECLARATION OF MELVYN ROSS IN SUPPORT OF OBJECTING**  
20 **LPS' SUR-REPLY**  
21 **(7) DECLARATION OF SANDRA HAYES IN SUPPORT OF OBJECTING**  
22 **LPS' SUR-REPLY**

17 I hereby certify that on October 7, 2013, I electronically filed the foregoing  
18 documents with the United States District Court for the Central District of California,  
19 Western Division by using the CM/ECF system. I certify that the following parties or  
20 their counsel of record are registered as ECF Filers and that they will be served by the  
21 CM/ECF system:

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27 William P Tooke [wtooke@mechlaw.com](mailto:wtooke@mechlaw.com)  
28

1 I further certify that on October 7, 2013, I served a copy of the foregoing  
2 documents on the following parties or their counsel of record by placing each envelope  
3 for collection and mailing following ordinary business practices. I am readily familiar  
4 with Ziprick & Cramer, LLP's practice for collection and processing correspondence  
5 for mailing with the United States Postal Service pursuant to which practice all  
6 correspondence will be deposited with the United States Postal Service the same day in  
7 the ordinary course of business by placing a true copy of the foregoing documents in a  
8 separate, sealed envelope with postage fully prepaid, for each addressee named  
9 hereafter.

10  
11 **[SEE ATTACHED SERVICE LIST]**

12  
13 I declare under penalty of perjury under the laws of the State of California that the  
14 foregoing is true and correct. Executed on October 7, 2013, at Redlands, California.

15  
16 /s/Lorelei Kay  
17 Lorelei Kay

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**SERVICE/MAILING LIST**

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Flagstar Bank Mail-Stop W-205-2 5151 Corporate Dr. Troy, MI 48098	Anh T. Nong & Nhon Nguyen TTEE Pen 209 E. Sunset Dr. South Redlands, CA 92373	Charles Schwab FBO Melvyn B. Roth IRA 5401 Lido Sands Dr. Newport Beach, CA 92663- 2204
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Wells Fargo Commercial Mortg. Attn: Ken Murray 1901 Harrison St., 7 <sup>th</sup> Flr. Oakland, CA 94612	Adele M. Hansen 6609 Summertrail Place Highland, CA 92346	Charles Schwab FBO Irena Sniecinski IRA P.O. Box 161680 Big Sky, MT 59716-1680
LNR (Loan Servicer) Attn: Jorge Rodriguez 1601 Washington Ave., 7 <sup>th</sup> Flr. Miami, FL 33139	Robert & Gladys Mitchell 11761 Almond Ct. Loma Linda 92354	Maria Perez 1364 Auroa Lane San Bernardino, CA 92408
C-III Asset Management LLC Attn: Kathy Patterson 5221 N. O'Connor Blvd., #600 Irving, TX 75039	Betty Markwardt 1220 West 4 <sup>th</sup> St. Anaconda, MT 59711	Geoffrey A. Gardiner 11535 Acacia St. Loma Linda, CA 92354
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	Carol P. Lowe 1837 Onda Dr. Camarillo, CA 93010	Charles Schwab FBO Melvyn Ross Roth IRA 5401 Lido Sands Dr. Newport Beach, CA 92663
		Charles Schwab FBO Janet Ihde IRA 35-800 Bob Hope Dr., #225 Rancho Mirage, CA 92270

1	Charles Schwab	Christi C. Higdon	Gordon & Myra Peterson
2	FBO Janet K. Ihde IRA	11331 Sundance Lane	118 Edgemont Dr.
3	P.O. Box 2131	Boca Raton, FL 33428	Redlands, CA 92373
4	Palm Springs, CA 92263	Robert & Enid McColloch	Fred & Elaine Hollaus
5	Charles Schwab	5520 Apple Orchard Ln.	1096 Deer Clover Way
6	FBO Leonard F. Neumann	Riverside, CA 92506	Castle Pines, CO 80108-
7	IRA	J. Jay & Theresa Whan	8271
8	30176 Live Oak Canyon Rd.	30660 Susan Dr.	James Powell
9	Redlands, CA 92373	Cathedral City, CA 92234	P.O. Box 294
10	Charles Schwab	Clem M. McColloch	Joshua Tree, CA 92252-0294
11	FBO Albert IRA	5520 Apple Orchard Ln.	James R. Watson, MD, Inc.
12	232 Anita Ct.	Riverside, CA 92506	Profit Sharing Plan
13	Redlands, CA 92373	Christine Coffman	259 Terracina Blvd.
14	Charles Schwab	11331 Sundane Lane	Redlands, CA 92373
15	FBO Angela Ellingson IRA	Boca Raton, FL 33428	Henry W. Shelton
16	1155 Dysart Dr.	Cinque Family Trust	805 Nottingham Dr.
17	Banning, CA 92220	36261 Chaparral Ct.	Redlands, CA 92373
18	Charles Schwab	Yucaipa, CA 92399	Jessie Coleen Birch Rev.
19	FBO Howard Racine IRA	David Ziilch Trust	Trust
20	1408 S. Center St.	941 Kensington Dr.	1948 Cave St.
21	Redlands, CA 92373	Redlands, CA 92374	Redlands, CA 92374
22	Charles Schwab	Cynthia Healy	Jill A. Meader Rev. Trust
23	FBO Donald I. Peterson	2560 Gorden Rd., #201-A	27250 Nicolas Rd., Apt.
24	11075 Benton St., #224	Monterey, CA 93942	A231
25	Loma Linda, CA 92354	David Conston	Temecula, CA 92591
26	Charles Schwab	417 Chino Canyon	Hu Tongs, Inc.
27	FBO Kirk Howard IRA	Palm Springs, CA 92262	16127 Kasota Rd., #105
28	1648 Woodlands Rd.	Dusty Bricker	Apple Valley, CA 92307
29	Beaumont, CA 92223	28 Ave at Port Imperial	JRT Revocable Trust
30	Charles Schwab/FBO Janet	#220	Jon Taylor Trustee
31	Ihde	West New York, NJ 07093	P.O. Box 681
32	74-785 Hwy. 111	Diana M. Weed	Calimesa, CA 92320
33	Wall St. W. Bldg. #102	1339 Wallach Place NW	Kasora Group
34	Indian Wells, CA 92210	Washington, DC 20009	279 Green Mountain
35	Charles Schwab	Elena Nizzia	Palm Desert, CA 92211
36	FBO Richard Paul Blandford	1155 Dysart Dr.	James P. Gerrard
37	7838 Valmont St.	Banning, CA 92220	526 Mariposa
38	Highland, CA 92346	Earl R. Schamehorn, Jr.	Redlands, CA 92373
39	Charles Schwab	1721 Valley Falls Ave.	Kathleen R. Wright
40	FBO Karl Phillips Roth IRA	Redlands, CA 92374	3605 Bonita Verde Dr.
41	27878 Via Sarasate	Eddie & Jamie Dotan	Bonita, CA 91902
42	Mission Viejo, CA 92692	20 Fairlee Terrace	Katie Hernandez
43	Jacobson Trust	Waban, MA 02468	P.O. Box 8874
44	384 Mesa Verde Park		Redlands, CA 92375
45	Beaumont, CA 92223		

1	Jean Seyda	Mary Margaret Hasy Rev. Trust	Pinkner Family Turst
2	168 Lakeshore Dr.	6609 Summer Trail Place	279 Green Mountain
3	Ranco Mirage, CA 92270	Highland, CA 92346	Palm Desert, CA 92211
4	Robert Casady	Melvyn & Ruth Ross	Neonatology Medical
5	14047 Pamlico Rd.	5401 Lido Sands Dr.	Group, Inc.
6	Apple Valley, CA 92307	Newport Beach, CA 92663	Retirement Plan
7	Jon J. Whan	Smith Revocable Trust	731 Buckingham Dr.
8	30660 Susan Dr.	Lenna Smith	Redlands, CA 92374
9	Cathedral City, CA 92234	38367 Cherrywood Dr.	Ron Mitchell
10	Joe Pinkner	Murieta, CA 92562	12033 Fourth St.
11	279 Green Mountain	Neal & Ruth Bricker Family Trust	Yucaipa, CA 92399
12	Palm Desert, CA 92211	985 S. Orange Grove Blvd., #101	Samuel D. Gregory
13	Leonard F. Neumann	Pasadena, CA 90015	4432 Strong St.
14	30176 Live Oak Canyon Rd.	Neal Living Trust	Riverside, CA 92501
15	Redlands, CA 92373	7322 Starboard St.	Paul Family Trust
16	Leslie G. Laybourne	Carlsbad, CA 92011	P.O. Box 7357
17	11050 Bryant St., #276	Lillian N. Franklin	Redlands, CA 92375
18	Yucaipa, CA 92399	740 E. Avery St.	Schachtel Family Trust
19	Joseph Dotan	San Bernardino, CA 92404	6 Strauss Terrace
20	Dotan Family Trust	Ngyuen & Nong Pension Plan	Rancho Mirage, CA 92270
21	1618 Woodlands	209 East Sunset Dr. South	Steele Family Trust
22	Beaumont, CA 92228	Redlands, CA 92373	26858 Calle Real
23	Louise Coffman	Patrice A. Milkovich	Capistrano Beach, CA 92624
24	19291 Sabal Lake Dr.	3605 Bonita Verde Dr.	Perry Damiani
25	Boca Raton, FL 33434	Bonita, CA 91902	16127 Kasota Road, #105
26	Luckey Charitable Trust	Manley J. Luckey	Apple Valley, CA 92307
27	8531 Glendale Rd.	8531 Glendale Rd.	Taber Family Trust
28	Hesperia, CA 92345	Hesperia, CA 92345	1475 Crestview Rd.
	Kathi Seegraves	Peggy Hatfield Neumann	Redlands, CA 92374
	20521 Whitstone Circle	30176 Live Oak Canyon Rd.	TD Ameritrade
	Bend, OR 97702	Redlands, CA 92373	FBO Steven IRA
	Margarita Estra Perez	Perez Family Survivors Trust	14424 Greenpoint Ln.
	P.O. Box 370	13219 Pipeline Ave.	Huntersville, NC 28078
	Chino, CA 91708	Chino, CA 91710	Rhonda Dean
	Marjorie Hatfield Living Trust	Mark & Barbara Carpenter	1705 Antho NY Ave.
	Trust	35571 Sleepy Hollow Rd.	Cottage Grove, OR 97424
	(Peggy Neumann)	Yucaipa, CA 92399	Donna Wooley
	30176 Live Oak Canyon Rd.	Peterson Rev. Living Trust	12721 Columbia Ave.
	Redlands, CA 92373	11075 Benton St., #224	Yucaipa, CA 92399
	Khari Baker	Loma Linda, CA 92354	TD Ameritrade
	27878 Via Sarasate	3	FBO Betty Markwardt IRA
	Mission Viejo, CA 92692	CERTIFICATE OF SERVICE	1220 West 4 <sup>th</sup> St.
		Case No. 2:11-cv-08607-R-DTB	Anaconda, MT 59711



1	Robert R. & Elayne Allen Route 2 Box 284 Ellington, MO 63638	TD Ameritrade FBO Jill Meader IRA 27250 Nicolas Rd., #A231 Temecula, CA 92591	Judy Racine 1408 S. Center St. Redlands, CA 92373
2			
3	TD Ameritrade FBO Horace Dillow IRA 1343 Crestview Rd. Redlands, CA 92374	William & Marion Conley 376 Franklin Ave. Redlands, CA 92373	William & Dolores McDonald 1354 Rhonda Ln. Redlands, CA 92373
4			
5	Cynthia Gillilan 39292 Oak Glen Rd. Yucaipa, CA 92399	TD Ameritrade FBO Stephen Weiss IRA Rollover 109 Midland Rd. Charlestown, RI 02813	Timothy C. Weed 133 E. Palm Ln. Redlands, CA 92373
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7	Sandra & Perry Hayes 111 E. Sunset Dr. South Redlands, CA 92373		Norman & Lois Smith 36135 Golden Gate Dr. Yucaipa, CA 92399
8		Louis G. Fournier III The Sutton Companies 525 Plum St., #100 Syracuse, NY 13204	
9	Jennifer Smith 38367 Cherrywood Dr. Murrieta, CA 92562		Brian & Sheri Branson 302 W. South Ave. Redlands, CA 92373
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11	TD Ameritrade FBO Eddie Dotan Rollover IRA 20 Fairlee Terrace Waban, MA 02468	Debra B. Gervais Law Office of Debra B. Gervais 302 West South Ave. Redlands, CA 92373	David Holden 555 W. Redlands Blvd. Redlands, CA 92373
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13			Chris Condon 1334 Susan Ave. Redlands, CA 92374
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15			Mark Edwards P.O. Box 9058 Redlands, CA 92346
16	TD Ameritrade FBO Joseph Dotan IRA 1618 Woodlands Rd. Beaumont, CA 92223	Michael S. Leib Third Flr Essex Centre 28400 Northwestern Hwy Southfield, MI 48034-8004	William R. & Janice L. Steele 26858 Calle Real Capistrano Beach, CA 92624
17			
18	The Bork Family Trust 24968 Lawton Ave. Loma Linda, CA 92357	TD Ameritrade FBO Dallas Stahr IRA 667 Gull Dr. Bodega Bay, CA 94923	Joy Atiga 12925 Hilary Way Redlands, CA 92373
19			
20	TD Ameritrade FBO Charles Grey IRA 63 Tumbury Ln. Irvine, CA 92620	Gregory Glenn/Glenn Consrsvhip Cynthia Healy P.O. Box 4037 Monterey, CA 93942	Harold Raune Richard D. McCune, Jr. 2068 Orange Tree Ln., #216 Redlands, CA 92374
21			
22	Ziilch Family Trust Ziilch Bypass Trust 667 Gull Dr. Bodega Bay, CA 94923	Dorothy Ziilch 667 Gull Dr. Bodega Bay, CA 94923	Karl Schamehorn 1005 Hamlin Place Redlands, CA 92373
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24	Thomas Phillips 1582 Huckleberry Len. San Luis Obispo, CA 93401	The Peterson Rev. Living Trust 11075 Benton St., #224 Loma Linda, CA 92354	John Coombe 5 First American Way, 4 <sup>th</sup> Flr. Santa Ana, CA 92707
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27			
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1	Goodwin & Assoc. 2 PO Box 1897 3 Redlands, CA 92373	James R. Forbes, Esq. Gaw, Van Male, APC 1411 Oliver Rd., #300 Fairfield, CA 94534-3425	Champion Roof Co. 2233 Martin St., #202 Irvine, CA 92612
4	Midland Loan Services PNC Bank Lockbox No. 771223 1223 Solutions Center Chicago, IL 60677-1002	American West Properties, Inc. P.O. Box 1299 Lake Forest, CA 92609	Club Resource Group 25520 Schulte Ct. Tracy, CA 95377
6	North Carolina Dept. of Revenue P.O. Box 25000 Raleigh, NC 27640-0645	Brunick, McElhaney & Kennedy P.O. Box 6425 San Bernardino, CA 92412	Elizabeth Branson P.O. Box 911 Loma Linda, CA 92354
9	Paracorp dba Parasec P.O. Box 160568 Sacramento, CA 95816-0568	JG Service Co. 15632 El Prado Fd. Chino, CA 91710	Michigan Dept. of Treasury P.O. Box 30113 Lansing, MI 48909
11	Premium Assignment Corp. P.O. Box 3100 Tallahasee, FL 32315-3100	Linda Key MNJ Key Corp. P.O. Box 3655 San Diego, CA 92163-3655	Michigan Dept. of Treasury P.O. Box 30774 Lansing, MI 48909-8274
13	Scott Showler, Esq. 1839 Commercenter West San Bernardino, CA 92408	MNJ Key Corp. P.O. Box 3655 San Diego, CA 92163-3655	State of Michigan c/o Michigan Dept. of Treasury Dept. 77003 Detroit, MI 48277-0003
15	Spilman Thomas & Battle, PLLC 110 Oakwood Dr., #500 Winston-Salem, NC 27103	Charles & Mildred Grey 63 Tumbury Lane Irvine, CA 92620-0244	Cornerstone Lane Surveying Co. 958 Temescal Circle Corona, CA 92879
17	The Goodwin Ins. Agency P.O. Box 1897 Redlands, CA 92373	Mound Investments Attn: Rhonda Welday 34124 Freedom Rd. Farmington, MI 48335	Don Kent Riverside County Treasurer P.O. Box 12010 Riverside, CA 92502-2210
19	United States Treasury 290 North D Street San Bernardino, CA 92401- 9964	OneWest Bank 390 West Valley Parkway Escondido, CA 92025-2635	Elrod Fence Co. 6459 Mission Blvd. Riverside, CA 92509
21	Waterstone Asset Management 8720 Red Oak Blvd., #300 Charlotte, NC 28217	Simplex Grinnell Dept. CH 10320 Palatine, IL 60055-0320	EMC Ins. Companies P.O. Box 219225 Kansas City, MO 64121- 9225
23	Higgs Benjamin 101 West Friendly Ave., #500 Greensboro, NC 27401	Watertight Plumbing, Inc. 16462 Gothard St., #202 Hunington Beach, CA 92647	FATCO Nat'l Commercial Ser. Attn: Accts. Receivable Dept. 5 First American Way Santa Ana, CA 92707
25	David Rapp, President Desert Commercial Property Mang. P.O. Box 2367 Rancho Mirage, CA 92270	Wesseling & Brackermann 6439 28 <sup>th</sup> Ave. Hudsonville, MI 49426	Innovative Electric & Consulting 18355 Hibiscus Ave. Riverside, CA 92508

1	Keystone Mortgage Corp.	C & R Asphalt	Spillman Thomaos & Battle
2	Attn: Loan Servicing Dept.	P.O. Box 8201	300 Kanawha Blvd. East
3	360 N. Sepulveda Blvd.	Lexington, KY 40533-8201	P.O. Box 273
	El Segundo, CA 90245		Charleston, WV 25321-00273
4	Mirage Developers, Inc.	Cathy Burgess Interiors	
	121 S. Palm Canyon Dr.	155 East Main St., #102	Thomas N. Jacobson, Esq.
5	#208	Lexington, KY 40507	3750 Santa Fe Ave., #105
	Palm Springs, CA 92262		Riverside, CA 92507
6	Riverside Public Utilities	Columbia Gas of Kentucky	
	3900 Main St.	P.O. Box 742523	CLMG Corp.
7	Riverside, CA 92522-0144	Cincinnati, OH 45274-2523	P.O. Box 55278
			Boston, MA 02205-5278
8	The Mattacola Law Firm	Commonwealth of Kentucky	
	217 N. Washington st.	Office of Housing/Bldg. & Const.	Locke & Lord
9	P.O. Box 725	101 Sea Hero Rd., #200	111 South Wacker Dr.
	Rome, NY 13442-0725	Frankfort, KY 40601-5405	Chicago, IL 60606
10			
	AJ Home Electric Co.	Davis H. Elliot Const. Co., Inc.	Mount Investment Ltd. Partnrshp.
11	1200 South Broadway, #105	P.O. Box 37251	c/o Heritier Nance & Smothers, PC
12	Lexington, KY 40504	Baltimore, MD 21297-3251	2150 Butterfield, #250
			Troy, MI 48084
13	ADT Security Services Inc.	Derek Roscoe	
	P.O. Box 371967	c/o NAI Isaac Commercial Prop.	Thomas C. Hebrank
14	Pittsburgh, PA 15250-7967	771 Corporate Dr., #300	501 W. Broadway, #80
		Lexington, KY 40503	San Diego, CA 92101
15	Aetna Building Maintenance		
	1717 Dixie Hwy, Ste 385	Division of Revenue	Scott Bartel, Esq.
16	Fort Wright, KY 41011	Lexington-Fayett	Locke Lord Bissell & Liddell
		Urban County Gov	500 Capital Mall, Suite 1800
17		P.O. Box 14058	Sacramento, CA 95814
	Allied Waste Services #922	Lexington, KY 40512	
18	Sacramento		
	P.O. Box 78030	Golden Eagle Ins.	Spencer Bendell
19	Phoenix, AZ 85062-8030	P.O. Box 84834	John M. McCoy, III
		San Diego, CA 92186-5834	US Securities Exchange Comm.
20	Isaac Commercial Properties		5670 Wilshire Blvd.,
	771 Corporate Dr., #300	Home Savings & Loan Co. Commercial Loan Dept.	11 <sup>th</sup> Floor
21	Lexington, KY 40555-5066	P.O. Box 1111	Los Angeles, CA90036
22		Youngstown, OH 44501	
	B.B.D. Cleaning Service & Sol.		
23	P.O. Box 817	Ohio Dept. Of Taxation	Marshall Brubacher, Esq.
	Lawrenceburg, KY 40342	P.O. Box 182101	Mundell, Odlum & Haws, LLP
24		Columbus, OH 43218-2101	650 E. Hospitality Lane,
			#470
25	Ben-Tel Service	Ohio Treasurer of State	San Bernardino, CA 92408-3240
	P.O. Box 55066	P.O. Box 181140	
26	Lexington, KY 40555-5066	Columbus, OH 43218-1140	
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