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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE)	CASE NO. CV 11-8607-R
COMMISSION,)	
)	ORDER DENYING EX PARTE
Plaintiff,)	APPLICATION FOR ORDER
)	TRANSFERRING FUNDS TO A
v.)	DEPOSITORY ACCOUNT PENDING
)	APPEAL
CHARLES P. COPELAND, COPELAND)	
WEALTH MANAGEMENT, A FINANCIAL)	
ADVISORY CORPORATION, AND)	
COPELAND WEALTH MANAGEMENT, A)	
REAL ESTATE CORPORATION,)	
)	
Defendants.)	
)	
)	

Before the Court is the Objecting Limited Partners’ (“Objecting LPs”) “Ex Parte Application for Order Transferring Funds to a Depository Account Pending Appeal” (“Motion”). The Objecting LPs request the Court to order the Receiver to transfer certain funds to a depository account pending the outcome of the Objecting LPs’ appeal.

The underlying dispute at issue relates to the Receiver’s proposed distribution of the assets of Copeland Properties 18 (“CP18”). By order entered November 5, 2013, the Court granted the Receiver’s motion to distribute the assets of, and then cancel, CP18 (“the Order”). However, the Court left open the issue of whether a certain claim of Tri Tool, Inc. (“Tri Tool”) was valid and ordered further briefing on the issue. The Order provided that the “Receiver shall distribute the

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1 assets of CP18 and cancel the entity following the adjudication of Tri Tool’s remaining claim.”
2 The parties have filed their briefs regarding the Tri Tool claims and the Court has taken the matter
3 under submission.

4 The Order explicitly provides that no distribution is to be made until the Tri Tool claim is
5 resolved. The Objecting LPs filed a notice of appeal of the Order on December 4, 2013. On
6 December 6, 2013 the Ninth Circuit Court of Appeals (“Ninth Circuit”) issued an order directing
7 the Objecting LPs to either dismiss the appeal or show cause why it should not be dismissed for
8 lack of jurisdiction within 21 days. Stephens Decl., Ex. 4. The Ninth Circuit noted that the “district
9 court’s order challenged in this appeal did not dispose of the action as to all claims and all
10 parties.” *Id.*

11 In the Application the Objecting LPs acknowledge the Ninth Circuit’s order, stating that
12 “[i]n essence, the Appeal was deemed premature.” Application, p. 2. This statement, along with
13 the fact that the Objecting LPs do not indicate that they are going to file a response to the Ninth
14 Circuit’s order, indicates that the Objecting LPs will acquiesce to the appeal’s dismissal.

15 Without an appeal it would be premature to grant the Objecting LPs the relief they seek.
16 *See Mathis v. Zant*, 708 F.Supp.339, 340 (N.D. Ga. 1989) (“A stay pending appeal is not
17 warranted, since no appeal is currently pending.”).

18 **IT IS HEREBY ORDERED** that the Ex Parte Application is denied.

19 Dated: January 2, 2014.

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23 MANUEL L. REAL
24 UNITED STATES DISTRICT JUDGE
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