

1 NEWMEYER & DILLION LLP
 FRANCIS E. QUINLAN, CBN 84690
 2 Francis.Quinlan@ndlf.com
 JOHN E. BOWERBANK, CBN 211566
 3 John.Bowerbank@ndlf.com
 895 Dove Street, 5th Floor
 4 Newport Beach, California 92660
 (949) 854-7000; (949) 854-7099 (Fax)

5 Attorneys for the Joining Limited Partners of
 6 COPELAND PROPERTIES TWO, a Limited
 Partnership; COPELAND PROPERTIES FIVE, a
 7 Limited Partnership; COPELAND PROPERTIES
 SEVEN, a Limited Partnership; COPELAND
 8 PROPERTIES 16, L.P.; COPELAND
 PROPERTIES 17, L.P.

10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA

13 SECURITIES AND EXCHANGE
 COMMISSION,

14 Plaintiff,

15 vs.

16 CHARLES P. COPELAND,
 17 COPELAND WEALTH
 MANAGEMENT, A FINANCIAL
 18 ADVISORY CORPORATION, and
 COPELAND WEALTH
 19 MANAGEMENT, A REAL ESTATE
 CORPORATION,

20 Defendant.

CASE NO.: 11-08607-R-DTB

**OPPOSITION BY CERTAIN
 LIMITED PARTNERS OF
 COPELAND PROPERTIES 5, 7, 16
 AND 2/17 TO ALLEN MATKINS
 LECK GAMBLE MALLORY &
 NATSIS, LLP'S FIRST AND
 FINAL FEE APPLICATION**

Hearing Date: July 2, 2012
 Hearing Time: 10:00 a.m.
 Courtroom: 8, 2nd Floor
 Judge: Hon. Manuel Real

FILE DATE: October 18, 2011
 TRIAL DATE SET: No Date Set

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 This Opposition is filed by certain Limited Partners of Copeland Properties 5,
 2 Copeland Properties 7, Copeland Properties 16, and Copeland Properties 2/17.
 3 Notably, Copeland Properties ("CP") 2/17 represents a past merger of interests of
 4 CP 2 and CP 17. This Opposition is made on behalf of limited partners comprising
 5 the following percentage ownership of Copeland Properties 5, 7, 16 and 2/17:

	TOTAL CAPITAL	LPs INTEREST
8 CP 5	\$4,666,177.41	47.92%
9 CP 7	\$1,254,888.98	39.43%
10 CP 16	\$1,375,053.44	89.39%
11 CP 2/17	\$6,103,133.88	100%

12 **1. INTRODUCTION**

13 "No receivership is intended to generously reward court-appointed officers."
 14 *SEC v. W. L. Moody & Company*, 374 Fed.Supp. 465, 483 (S.D. Texas 1974). This
 15 Fee Application by the Allen Matkins law firm is not made by a court-appointed
 16 officer. In the several weeks following the October 18, 2011 entry of an injunction
 17 and consent order by the SEC against Charles Copeland and Copeland Wealth
 18 Management, the financial advisory and the real estate corporation, this
 19 unappointed firm ran up a legal bill which, including its so-called discounts,
 20 approaches \$150,000. Allen Matkins, in its application, acknowledges that the
 21 court rejected its hiring as "too expensive." It then blithely goes on to suggest that
 22 despite the court's rejection, the receiver at the outset had authority to hire Allen
 23 Matkins at its excessive rates and run up that \$150,000 legal bill. Now Allen
 24 Matkins is asking the court to forget that it rejected the firm and its expensive
 25 hourly rates and pay them anyway, for questionable work. This sort of conduct is
 26 exactly what the court proscribed in the *Moody* case, *supra*, and, if approved, would
 27 be the first step on the destructive path that will amount to an effective looting of
 28 the receivership estate.

2. **KEY EVENTS RELEVANT TO DENIAL OF THIS FEE APPLICATION**

- **October 18, 2011** – SEC files a complaint against defendants Charles P. Copeland, Copeland Wealth Management (a financial advisory corporation) and Copeland Wealth Management (a real estate corporation).
- **October 18, 2011** – Defendants consent to entry of injunction against them.
- **October 19, 2011** – Judgment of permanent injunction and other relief as to the Copeland defendants is filed and entered on October 25, 2011. Note that this judgment does not extend to any of the independently registered real estate limited partnerships that bear the Copeland name.
- **November 18, 2011** – Receiver's Application to employ Allen Matkins as its general counsel is entered.
- **November 18, 2011** – Receiver files a Preliminary Report and Request for an Order Clarifying Scope of Receivership. Note that this Application was prepared and filed by Allen Matkins.
- **December 12, 2011** – Objections of Certain Limited Partners of Copeland Properties 10 to Receiver's Preliminary Report is filed. Objectors specify there is no basis to conclude that CP 10 is a beneficiary of Ponzi scheme payments.
- **December 15, 2011** – SEC files Response to Objections of Certain Limited Partners of CP 10 to Receiver's Preliminary Report.
- **December 19, 2011** – Court continues Receiver's Application to Employ Allen Matkins and Receiver's Preliminary Report and Request for Order Clarifying Scope of Receivership to January 23, 2012.
- **January 23, 2012** – Joinder filed by Objectors from Copeland

1 Properties 2, 5, 7, 16 and 17 to Objections of Copeland Properties 10
2 Limited Partnership.

- 3 • **February 6, 2012** – Entry of Minutes of the court denying the
4 Receiver’s Application to Employ Allen Matkins and ordering the
5 Receiver to submit bids for three law firms for possible appointment as
6 Receiver’s general counsel. The court further takes off calendar as
7 moot the Receiver’s Preliminary Report and Request for Order
8 Clarifying Scope of the Receivership. The court also modifies and
9 signs the February 2, 2012 Proposed Order submitted by the Certain
10 Limited Partners of CP 2, 5, 7, 16 and 17, which order sets a deadline
11 for the Receiver to account for and provide written justification for the
12 retention of all limited partnerships in the receivership.
- 13 • **March 1, 2012** – Transcript of the proceedings held February 6, 2012
14 entered into the record. Note that the court stated: “And no ruling
15 upon the Receiver’s Request for Order Clarifying the Scope of the
16 Receivership and aiding administration. If the Receiver is a qualified
17 receiver, he should know how -- what the scope of this receivership
18 is.” The court further states: “And as to those matters, I have been
19 handed an order this morning -- proposed order. And as to those -- so
20 there will be no question in the other rulings upon the other investors
21 that have been filed here. And the ruling is within thirty days of the
22 date of this order -- and that would be thirty days [from] today because
23 I’m going to sign the order -- the Receiver is required to report
24 findings on the validity of any notes receivable by all -- all limited
25 partnerships as a simple creditor and provide justification for
26 continued inclusion of such limited partnership in the receivership.
27 Should the Receiver not report an offer of justification for continued
28 inclusion the subject limited partnerships will be entitled to an order of

the court relieving the Receiver from further duty as general partner in favor of a newly elected general partner. The court will retain jurisdiction of undiscovered claims by the Receiver against the released limited partnerships. Within ninety days -- no, within sixty days of the date of this order, the Receiver is required to report his findings as to the validity of complex notes receivable and payable between and among other limited partnership entities and fixed income funds and justification for continued inclusion of such limited partnerships in the Receivership on the grounds that cross-transactions amount to actual comingling such that the equities require a receiver to unwind. Should the Receiver not report an offer of such justification for continued inclusion, the subject limited partnerships shall be entitled to an order of court relieving the Receiver from further duty as general partner in favor of the new general partners elected by the limited partners.”

- **March 5, 2012** – Receiver files Response to Order on Receiver’s Application setting a deadline for justification of retention of limited partnerships on the basis of alleged comingling of funds. Note, this response is not an accounting – just repetition of the SEC’s allegations of “Ponzi-like” activity.
- **March 12, 2012** – The court enters an order authorizing employment of general counsel at not more than an hourly rate of \$365 for the primary attorney and \$265 under the firm’s blended rate.
- **March 12, 2012** – Receiver files Order Approving Receiver’s Response to Order on Receiver’s Application and Report. Note there is no evidence of service of this Order on any of the interested parties in this case and no hearing was held before entry of this Order.

1 **3. ALLEN MATKINS IS RESPONSIBLE FOR IMPROPERLY**
2 **PUSHING TO EXPAND THE RECEIVERSHIP TO ENCOMPASS**
3 **INDEPENDENTLY REGISTERED LIMITED PARTNERSHIPS TO**
4 **THE PERMANENT FINANCIAL DETRIMENT OF THE LIMITED**
5 **PARTNERS, MANY OF WHOM ARE RETIREES.**

6 The unwritten first commandment for all court-appointed receivers and their
7 counsel is this: “First, figure out how you’re going to get paid.” It is particularly
8 important to understand that the SEC is quite well aware that there were at one time
9 as many as 23 limited partnerships formed by the Copeland entities and registered
10 as separate legal entities in California. The SEC is also quite well aware, because it
11 had all of the Copeland accounting records, that the Copeland CPA firm had filed
12 tax returns on behalf of all of these limited partnerships establishing capital
13 accounts and reporting changes to those capital accounts to the Internal Revenue
14 Service. The SEC is quite well aware because it had all of the records and, the
15 proof of service of the Complaint and Entry of Injunction against the Copeland
16 defendants listed dozens of limited partners whose interests are held in IRAs, trusts,
17 pension plans and others under Internal Revenue Code Section 1031 tax deferment.

18 The SEC has been silent on the issue of why the limited partnerships were
19 not included in its original Complaint and Entry of Injunction against the Copeland
20 defendants. Perhaps it is because the SEC understands that these limited
21 partnerships are separate legal entities; and that no proof has been entered to
22 establish the truth of its allegations of comingling and “Ponzi-like” behavior by the
23 Copeland defendants supported by a proper forensic accounting of all of the
24 questioned transfers. Allen Matkins, on the other hand, understood the first
25 commandment of receivership and assisted the Receiver in immediately applying to
26 expand the Receivership so that the Receiver could gain control of all of the limited
27 partnerships and their bank accounts and, thus, their cash flow. The accounting
28 issue remains unresolved and presumably the Receiver will, at some point, produce

1 an accounting of all the transfers to determine as neutral agent of the court whether
2 or not the net affect of all of the transfers justifies retention of any of the limited
3 partnerships in the Receivership as debtors of the estate.

4 As a result of the Allen Matkins push to expand the Receivership so as to
5 gain control of the cash flow of the solvent limited partnerships, those limited
6 partners who are entitled under law enjoy the payment of distributions from the
7 rents of their investments in commercial properties held by those partnerships has
8 been interrupted. Their investments are under attack for the payment of excessive
9 fees across the board. It has been nine months since the entry of the Consent by the
10 Copeland defendants to the SEC's injunction request. That delay has forced
11 hardship upon a number of the limited partners who are retirees and forced some of
12 them to make dramatic changes in their living arrangements.

13 This objection is not intended to reach the actions taken with respect to the
14 specific Copeland entities under injunction, the wealth management and real estate
15 entities. But, these objectors vehemently resist the exploitation of their solvent
16 partnerships to pay the Receiver's lawyers and his own fees as fundamentally
17 unjust. Because there has been no proof entered into this court as to actual
18 comingling or Ponzi-like behavior that should cause the destruction of any of the
19 limited partnerships, this court is respectfully requested to limit any payments to
20 any applicant from only those accounts that are related to the enjoined entities,
21 Copeland Wealth Management, the real estate corporation and the financial
22 advisory service, and no others.

23 The allegations of the SEC in its Complaint and the action by Allen Matkins
24 to expand the Receivership Order to have the limited partnerships designated as
25 affiliates of the Copeland defendants should be treated as nothing more than an
26 unproven allegation for which not a shred of accounting evidence has been entered.
27 Accountings must be done in full and not be presented by a receiver and his counsel
28 as hyperbolic, cherry-picked line entries broadly described without justification as

1 proof of comingling and Ponzi-like activity. Those who seek to profit from the
2 expansion of this Receivership in such a manner should be summarily denied.

3 **4. ALLEN MATKINS' FEE APPLICATION SHOULD BE DENIED.**

4 In its Application, Allen Matkins admits that it was never appointed by the
5 Court as counsel and the Court found its fees "expensive." It should go without
6 saying that all lawyers know they must obtain authorization from the Court in cases
7 like this. Despite not authorized to bill any time on behalf of the receivership,
8 Allen Matkins is brazenly asking the Court to issue an order compensating Allen
9 Matkins in the amount of \$129,205.30 for some analysis done by 5 ridiculously
10 high priced partners, two senior counsel, and the attendance of a hearing in Indio by
11 a second year associate. Yes, that is correct, Allen Matkins used only 1 associate
12 (Richard Dinets at \$274.50 per hour), a second year lawyer, on this file that billed
13 approximately 5 percent of the hours billed (15.1 hours total). Allen Matkins also
14 used one paralegal (John Kaup at \$198 per hour) who billed approximately 5
15 percent of the total hours (17.4 hours). Sadly, all of the other numerous and
16 unnecessary hours billed were from partners and senior counsel billing from
17 approximately \$400-\$600 per hour. Allen Matkins' Application seeks
18 reimbursement for billing 297.3 hours of time. Of the 297.3 hours billed, 90% was
19 billed by 5 partners and senior counsel as part of what could only be called a billing
20 frenzy.

21 As to costs, Allen Matkins seeks to be purportedly reimbursed for \$5,610.26
22 in photocopies at .19 cents per page. Indeed, most copy services charge 5 cents to
23 10 cents per page.

24 In sum, Allen Matkins' had no authorization to bill such time and/or to incur
25 such costs. Allen Matkins was never approved by the Court and for good reason.

26 ///

27 ///

28 ///

1 **5. IF THE COURT IS INCLINED TO GRANT ANY PART OF THE FEE**
 2 **APPLICATION, THE COURT SHOULD ORDER THAT NO FEES**
 3 **AND COSTS BE PAID FROM ASSETS OF CP 5, CP 7, CP 16, AND**
 4 **CP 2/17.**

5 To the extent the Court is inclined to grant some or all of Allen Matkins' fee
 6 application, the Court should order that none of the fees are paid from the assets
 7 and/or funds from CP 5, CP 7, CP 16, and CP 2/17. To date, there has been no
 8 probative evidence that such partnerships have been comingled and no reason
 9 advanced why the limited partners should have their retirement funds depleted.

10 **6. CONCLUSION**

11 For the foregoing reasons, Allen Matkins' application should be denied.

12
 13 Dated: June 11, 2012

NEWMEYER & DILLION LLP

14
 15 By: /s/ Francis E. Quinlan

16 Francis E. Quinlan
 17 John E. Bowerbank
 18 Attorneys for
 19 the Joining Limited Partners of
 20 COPELAND PROPERTIES TWO, a
 21 Limited Partnership; COPELAND
 22 PROPERTIES FIVE, a Limited
 23 Partnership; COPELAND
 24 PROPERTIES SEVEN, a Limited
 25 Partnership; COPELAND
 26 PROPERTIES 16, L.P.; COPELAND
 27 PROPERTIES 17, L.P.
 28

CERTIFICATE OF SERVICE

I, Joanne Kenney, hereby certify that on June 11, 2012, the attached document was electronically transmitted to the Clerk of the Court using the CM/ECF System which will send a Notice of Electronic Filing to the following CM/ECF registrants:

Spencer Evan Bendell	bendells@sec.gov
Peter Alan Davidson	pdavidson@ecjlaw.com
Edward G Fates	tfates@allenmatkins.com
Michael S Leib	mleib@maddinhauser.com
John M McCoy, III	mccoyj@sec.gov
David M Rosen	rosend@sec.gov
William P Tooke	wtooke@mechlaw.com
Francis E Quinlan	frank.quinlan@ndlf.com

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 11, 2012, at Newport Beach, California.

/s/ Joanne Kenney
Joanne Kenney