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9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 WESTERN DIVISION - LOS ANGELES

12 SECURITIES AND EXCHANGE
 COMMISSION,

13 Plaintiff,

14 v.

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

18 Defendants.
 19

Case No. 11-08607-R-DTB

**RECEIVER'S REPLY TO OBJECTION OF
 CERTAIN LIMITED PARTNERS OF
 COPELAND PROPERTIES TEN**

Date: December 19, 2011
 Time: 10:00 a.m.
 Ctrm: 8, 2nd Floor
 Judge: Hon. Manuel L. Real

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1 Thomas C. Hebrank ("Receiver"), the Court-appointed permanent receiver for Copeland
2 Wealth Management, a Financial Advisory Corporation ("CWM"), Copeland Wealth
3 Management, a Real Estate Corporation ("Copeland Realty"), and their subsidiaries and affiliates
4 (collectively, the "Receivership Entities"), hereby submits this Reply to Objection of Certain
5 Limited Partners of Copeland Properties Ten to Receiver's Preliminary Report ("Objection").

6 **I. INTRODUCTION**

7 The Objection, filed on behalf of nine of the thirteen limited partners ("CP10 Objectors")
8 of Copeland Properties Ten, L.P. ("CP10"), argues that CP10 was not that extensively intertwined
9 with CWM, Copeland Realty or the other Limited Partnerships so it should be allowed to separate
10 from the receivership and do what it wants with the real property and the rents therefrom.
11 Allowing CP10 to separate from the receivership, however, would undermine the fundamental
12 goals of the receivership and would exacerbate the losses to investor victims.

13 CP10 is one of 23 limited partnerships set up and managed by CWM and Copeland Realty
14 ("Limited Partnerships"). Almost all assets of the Receivership Entities are held by the Limited
15 Partnerships. If equity is to be achieved through this receivership, it is imperative that assets be
16 preserved, a forensic accounting be conducted, notice be given to all investors and creditors, and
17 the Court determine who has allowed claims and how assets should be distributed. If all Limited
18 Partnerships with assets were removed from the Court's jurisdiction, the receivership would serve
19 very little purpose.

20 As explained in the Receiver's Preliminary Report, the balance sheets for the Receivership
21 Entities reflect that, in the aggregate, CWM, Copeland Realty and the Limited Partnerships owe
22 one another approximately \$16.4 million on account of intercompany loans, have invested
23 approximately \$3.1 million in one another, and are owed approximately \$6.5 million on account of
24 loans to limited partners, CWM clients, Charles Copeland and other related parties. *See*
25 Preliminary Report, Exhibit B. With respect to CP10, the balance sheets reflect that it owes
26 approximately \$31,000 to Copeland Fixed Income Three ("CFI3"), it received an equity
27 investment of approximately \$95,000 from Copeland Properties Five, and that CP10 Objector
28 Vellone Muraligopal ("Muraligopal") owes \$165,000 to CFI3. It is important to remember that

1 the balance sheets were maintained by Defendant Charles Copeland and Copeland Accountancy.
2 They have not yet been fully audited by the Receiver. It is possible that additional loans were
3 made to and from CP10 and its limited partners. The Receiver's forensic accounting will reveal
4 any such loans.

5 If CP10 were allowed to remove itself from the Court's jurisdiction, nothing would prevent
6 it from distributing the cash in its bank account to its limited partners. This would potentially
7 harm other investors and creditors in that, as noted above, CP10 owes \$31,000 to CFI3,
8 Muraligopal owes \$165,000 to CFI3, and other debts CP10 owes other Limited Partnerships may
9 exist. To ensure that such harm does not occur, the Receiver would likely have to sue CP10 to
10 obtain an injunction prohibiting distributions to limited partners until such time as the Court
11 allows. The injunction would operate much the same as the receivership. The Receiver would
12 also potentially have to sue Muraligopal to recover the \$165,000 owed to CFI3. Therefore, even if
13 CP10 were the only Limited Partnership, it is clear that allowing CP10 to remove itself from the
14 Court's jurisdiction increases litigation and expenses associated therewith.¹

15 Of course, if CP10 were allowed to separate, the other Limited Partnerships with assets
16 would seek the same relief. The Court would have to determine which Limited Partnerships
17 should be in and which should be out. Again, more litigation and more expenses. Once those
18 decisions are made, the Receiver would have to sue the Limited Partnerships that have been
19 allowed to separate for injunctive relief and to collect on loans they received from other
20 Receivership Entities. The Receiver would also have to sue limited partners who received loans.
21 The result would be a series of 20 or more lawsuits trying to achieve what the receivership already
22 does, but doing so less effectively and much less efficiently.

23 For these reasons an equity receivership is a single, collective proceeding in which the
24 Court has jurisdiction over the assets, the Receiver conducts an investigation and reports to the
25 Court, investors and creditors are given notice and the opportunity to be heard, and the Court
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28 ¹ The Objection acknowledges that allowing separation would increase litigation, stating that the Receiver could "seek court relief if it [sic] believed proposed action by the partnership would be harmful."

1 determines who has valid claims and the most equitable manner of distributing assets. The two
2 primary goals – equity and efficiency – are best served by one collective proceeding. In order for
3 a receivership to achieve its goals, the Court must remain in control of the assets while the
4 investigation and forensic accounting are conducted.

5 Using CP10 as an example, as discussed above, keeping the entity under the Court's
6 jurisdiction reduces litigation expenses. The injunction contained in Part VIII of the Judgment
7 also protects CP10's assets from creditors. Furthermore, after the forensic accounting is
8 completed, the receivership will allow the Court to ensure that CP10's debts to other Receivership
9 Entities are paid before distributions to limited partners are made. It will also allow the Court, if
10 appropriate, to require that Muraligopal pay off the loan he received from CFI3 before receiving
11 distributions from CP10. Moreover, the balance sheets reflect that CP10 is owed a total of
12 approximately \$100,000 from Copeland Fixed Income One ("CFI1"), Copeland Properties Six
13 ("CP6"), Copeland Properties Nine ("CP9"), and Copeland Realty. The Receiver and the Court
14 can ensure that these loans issued by CP10 are repaid before the limited partners of CFI1, CP6 and
15 CP9 receive distributions.

16 Another concern relates to limited partners who signed personal guaranties of loans issued
17 to the Real Estate Funds. Some of these limited partners have alleged that they were told to sign
18 the guaranty documents by Defendant Charles Copeland without knowing what they were. The
19 CP10 Objectors state that certain of them signed personal guaranties. Objection, p. 3, Copeland
20 Declaration ¶ 4. Defendant Copeland has stated to the Receiver that if the CP10 property were
21 sold, the proceeds would not be sufficient to pay off the loan. The Receiver has not yet obtained
22 an appraisal of the CP10 property. California law, however, prohibits distributions to limited
23 partners when the total assets of the limited partnership are less than its total liabilities. Cal. Corp.
24 Code § 15905.08. Such distributions, which the Objection indicates the CP Objectors intend to
25 make, would leave the limited partners who signed guaranties with significant exposure to a
26 deficiency judgment. With the Limited Partnerships under the Court's jurisdiction, the Court can
27 mitigate this potential inequity. The Court might decide that accumulated rents should be used to
28 pay down the loan or maintained as a reserve in the event that the property value remains lower

1 than the loan balance when the loan matures. Therefore, the benefits of keeping CP10 under the
2 Court's jurisdiction, both in terms of achieving equity and minimizing expenses, are substantial.

3 The Receiver does not seek anything more than preservation of the status quo. How the
4 assets of CP10 or the other Limited Partnerships should be distributed is not before the Court, nor
5 would it be appropriate for the Court to rule on that important issue without the benefit of the
6 Receiver's forensic accounting. It may prove to be the case that the most equitable manner of
7 distributing assets is for each Limited Partnership to pay off its debts to other Receivership
8 Entities and for the remaining assets to be distributed pursuant to the Limited Partnership
9 Agreements. Regardless, all limited partners will receive notice and have the opportunity to be
10 heard before any decisions regarding distributions are made. The relief the Receiver now seeks is
11 not intended to shape, influence or in any way alter the landscape regarding the Court's later
12 determination of this issue.

13 II. BACKGROUND

14 On November 18, 2011, the Receiver filed his Preliminary Report to the Court ("Report").
15 The Report was served on all known investors and creditors, including all limited partners of the
16 23 Limited Partnerships. The Report describes the Receiver's activities to date, and, among other
17 things, asks the Court to clarify that the Limited Partnerships are included in the receivership as
18 affiliates of CWM and Copeland Realty. The Report is set for hearing on December 19, 2011.

19 On November 28, 2011, the Receiver's counsel was contacted by attorneys William Tooke
20 and Mark Edwards who stated that they had been retained by one of the limited partners of CP10.
21 Messrs. Tooke and Edwards stated that their client was meeting with other limited partners of
22 CP10 who might retain them as well. Mr. Tooke asked if the Receiver would stipulate to a
23 one-week extension of the deadline to respond to the relief requested in the Report. The Receiver
24 agreed to so stipulate, provided the Receiver's deadline to reply was extended as well. The
25 Receiver's counsel confirmed that the Securities and Exchange Commission ("Commission")
26 would agree to the extension as well and advised Mr. Tooke of the same. Mr. Tooke then stated
27 that a meeting of the CP10 limited partners was happening on December 1, 2011, and that he
28 would be back in touch after the meeting. Neither Mr. Tooke nor his clients ever contacted the

1 Receiver or his counsel further about an extension of the deadline to file opposition. On
2 December 12, 2011, *i.e.*, one week before the hearing, Mr. Tooke filed the Objection on behalf of
3 the CP10 Objectors. The late filing of the Objection leaves the Receiver and the Securities and
4 Exchange Commission with a very short window to reply.

5 **III. ARGUMENT**

6 The CP10 Objectors make a series of arguments as to why the Court cannot include CP10
7 in the receivership and why doing so will cause them great harm. These arguments fail to
8 establish a basis for separating CP10 from the receivership.

9 **A. Including CP10 in the Receivership Does Not Violate Due Process**

10 The CP10 Objectors argue that including CP10 in the receivership violates due process.
11 This argument lacks merit. Copeland Realty, the general partner of CP10, consented to the relief
12 contained in the Judgment, including the appointment of the Receiver over CWM, Copeland
13 Realty, and their subsidiaries and affiliates. Service of process on the general partner of a limited
14 partnership is effective service under Federal Rule of Civil Procedure 4(h)(1)(A) and California
15 Code of Civil Procedure § 416.40. Copeland Realty's acts as general partner are binding on the
16 Limited Partnerships. Cal. Corp. Code § 15904.02.

17 Moreover, in the *San Vicente* case cited by the CP10 Objectors, the Ninth Circuit required
18 that limited partnerships affiliated with the named defendants receive actual notice and the
19 opportunity to be heard before they be included in the receivership. *In re San Vicente Medical*
20 *Partners, Ltd.*, 962 F.2d 1402, 1408 (9th Cir. 1992). Here, the Receiver mailed the Report to all
21 known investors and creditors, including all limited partners of the 23 Limited Partnerships. The
22 Report is also posted on the Receiver's website. Therefore, the CP10 Objectors have been given
23 actual notice and the opportunity to be heard, and inclusion of CP10 in the receivership does not
24 violate due process.

25 **B. "Dissociation" of the General Partner is Irrelevant**

26 The CP10 Objectors argue that when Copeland Realty consented to the appointment of the
27 Receiver, it became dissociated from CP10. This argument misses the point. The issue is whether
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1 the Judgment includes CP10 in the receivership. The effect of Copeland Realty's consent on its
2 status as general partner is irrelevant.

3 **C. The Receivership Protects, Not Harms CP10**

4 The CP10 Objectors contend that including CP10 in the receivership could cause
5 "disastrous results" for CP10, "including potential dissolution of CP-10 by operation of law,
6 default and foreclosure by the bank holding a note and deed of trust against CP-10's only asset,
7 and significant liability such a default would unfairly foist upon the limited partners who
8 personally guaranteed CP-10's loan commitment."

9 The relief requested in the Report is simple - preserve the status quo by protecting the
10 assets of the Limited Partnerships until the Receiver's investigation and forensic accounting are
11 completed. The Limited Partnerships are not going to dissolve and the Judgment enjoins banks
12 from foreclosing (Judgment, Part VIII). The Receiver will continue to make the monthly
13 mortgage payments, so none of the CP10 Objectors are going to be sued on a personal guaranty.

14 The only harm to the CP10 Objectors is that they will not receive monthly distributions
15 while the Receiver's forensic accounting is conducted. The Receiver certainly sympathizes with
16 the financial strain the delay in distributions may cause. If equity is to be done, however, the flow
17 of money out of the Receivership Entities must be suspended until the Court can properly
18 determine how distributions should be made. The Receiver will complete his investigation and
19 forensic accounting promptly, and will present his findings and recommendations to the Court.
20 The Receiver estimates that his forensic accounting will be completed within 60 days of entry of
21 an order confirming that the Limited Partnerships are included in the receivership. In the
22 meantime, the Receiver will collect the rents from the CP10 property, make the mortgage
23 payments, and hold the remaining cash in CP10's bank account.

24 The Receivership also benefits CP10. As noted above, the injunction contained in the
25 Judgment protects CP10 and its assets from actions by creditors. Moreover, the balance sheets
26 reflect that CP10 is owed a total of approximately \$100,000 from CFI1, CP6, CP9, and Copeland
27 Realty. The Receiver and the Court can ensure that the loans issued by CP10 are repaid before the
28 limited partners of CFI1, CP6 and CP9 receive distributions.

1 **D. CP10 is an Affiliate of Copeland Realty**

2 Whether you apply the Black's Law Dictionary definition or the definition cited by the
3 CP10 Objectors in 17 C.F.R. § 230.405, the key factor in determining whether one entity is an
4 affiliate of another is control, which depends on the circumstances of the case. The CP10
5 Objectors argue that Copeland Realty has no control over CP10 due to the "dissociation" caused
6 by its consent to the receivership. As noted above, dissociation is irrelevant. Copeland Realty set
7 up CP10 and was its general partner from its inception. Copeland Realty had sole and exclusive
8 control of CP10, managed its real property, collected rents, made mortgage payments and other
9 necessary payments, handled lease issues, kept its books and records, and had control over its
10 bank account. Copeland Realty also orchestrated the loans CP10 issued to and received from
11 other Receivership Entities. Copeland Realty, as the general partner of all of the Fixed Income
12 and Real Estate Funds, knew at any given time which of them had cash available to lend and
13 which needed cash. Accordingly, Copeland Realty had complete control over CP10, and CP10
14 should be deemed its affiliate.

15 Moreover, Part V of the Judgment includes in the receivership all assets and property
16 "belonging to, being managed by or in the possession or control of Defendants CWM and
17 Copeland Realty and their subsidiaries and affiliates. . . ." CP10 and its assets were clearly
18 managed by Copeland Realty. The same applies to the other Real Estate Funds and the three
19 Fixed Income Funds. CWM managed the two Private Equity Funds. The Judgment, therefore,
20 includes CP10 and the 22 other Limited Partnerships in the receivership.

21 **IV. CONCLUSION**

22 For the foregoing reasons, the Receiver requests that the relief requested in the Report be
23 granted, and that the Court confirm that the Limited Partnerships are included in the receivership.

24 Dated: December 15, 2011

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

26 By: /s/ Ted Fates

27 TED FATES
Attorneys for Receiver
THOMAS C. HEBRANK

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PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of eighteen (18) and am not a party to this action. My business address is 501 West Broadway, 15th Floor, San Diego, California 92101-3541.

On December 15, 2011, I served the within document(s) described as:

➤ **RECEIVER'S REPLY TO OBJECTION OF CERTAIN LIMITED PARTNERS OF COPELAND PROPERTIES TEN**

on the interested parties in this action by:

BY ELECTRONIC NOTICE VIA THE ECF SYSTEM:

- **Spencer Evan Bendell** - bendells@sec.gov; LAROFiling@sec.gov; chattoop@sec.gov; abrahamj@sec.gov; stalkr@sec.gov; marcelom@sec.gov
- **Edward G Fates** - tfates@allenmatkins.com; bcrfilings@allenmatkins.com
- **John M McCoy , III** - mccoyj@sec.gov
- **David M Rosen** - Rosend@sec.gov
- **William P Tooke** - wtooke@mechlaw.com

BY MAIL: I placed a true copy of the document in a sealed envelope or package addressed as indicated on the attached Service List on the above-mentioned date in San Diego, California for collection and mailing pursuant to the firm's ordinary business practice. I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a true copy of the document to be sent to the persons at the corresponding electronic address as indicated on the attached Service List on the above-mentioned date.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on December 15, 2011, at San Diego, California.

Janine L. Holman
(Type or print name)


(Signature of Declarant)

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