

1 PHILIP H. DYSON, Esq. (SBN 097528)  
Law Office of Philip H. Dyson  
2 8461 La Mesa Boulevard  
La Mesa, California 91941  
3 (619) 462-3311

4 Eric J. Hougen, Esq. (SBN 258968)  
Law Offices of Eric J. Hougen  
5 624 Broadway, Suite 303  
San Diego, CA 92101  
6 Telephone: (619) 702-1000

7 Attorney for Defendants LOUIS V. SCHOOLER  
and FIRST FINANCIAL PLANNING CORPORATION  
8

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 SECURITIES AND EXCHANGE )  
12 COMMISSION, )

13 Plaintiff, )

14 v. )

15 LOUIS V. SCHOOLER and FIRST )  
FINANCIAL PLANNING )  
16 CORPORATION d/b/a WESTERN )  
FINANCIAL PLANNING )  
17 CORPORATION, )

18 Defendants. )

Case No. 12 CV 2164 LAB JMA

**NOTICE OF MOTION AND MOTION  
TO DISMISS FOR FAILURE TO STATE  
A CLAIM UPON WHICH RELIEF CAN  
BE GRANTED**

**(FRCP 12(b)(6))**

Date: November 26, 2012

Time: 11:30 a.m.

Courtroom: 9

Judge: Hon. Larry Alan Burns

19  
20 TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE that on **November 26, 2012, at 11:30 a.m.**, or as soon  
22 thereafter as the matter may be heard in the above-entitled court, located at 940 Front Street,  
23 San Diego, California, in Courtroom 9, Defendants LOUIS V. SCHOOLER and FIRST  
24 FINANCIAL PLANNING CORPORATION (collectively "Defendants") will move the court  
25 to dismiss the action pursuant to Federal Rule of Civil Procedure 12(b)(6) because Plaintiff  
26 SECURITIES AND EXCHANGE COMMISSION'S ("Plaintiff") Complaint fails to state  
27 a claim upon which relief can be granted. The general partnership transactions at issue in  
28 this action are not securities. Accordingly, Plaintiff does not have the power to bring or

1 maintain this action.

2           The motion will be based on this Notice of Motion and Motion, the Memorandum of  
3 Points and Authorities and the Affidavit of Louis Schooler filed herewith, and the pleadings  
4 and papers filed herein.

5

6

Respectfully Submitted,

7

8

          /s/Philip H. Dyson  
Philip H. Dyson (Cal. Bar No. 097528)  
Counsel for Defendants

9

10

Law Offices of Philip H. Dyson  
8461 La Mesa Boulevard  
La Mesa, California 91941

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28