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18 Attorneys for Defendants LOUIS V. SCHOOLER  
19 and FIRST FINANCIAL PLANNING CORPORATION

20 **UNITED STATES DISTRICT COURT**  
21 **SOUTHERN DISTRICT OF CALIFORNIA**

22 SECURITIES AND EXCHANGE )  
23 COMMISSION, )

24 Plaintiff,

25 v.

26 LOUIS V. SCHOOLER and )  
27 FIRST FINANCIAL PLANNING )  
28 CORPORATION d/b/a )  
WESTERN FINANCIAL )  
PLANNING CORPORATION, )

Defendants.

Case No. 12 CV 2164 GPC JMA

**NOTICE OF MOTION AND  
MOTION FOR PARTIAL  
RECONSIDERATION OF THE  
ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANTS'  
MOTION TO MODIFY  
PRELIMINARY INJUNCTION  
ORDER [Fed. R. Civ. P. 59(e), 60(b)]**

**Date: November 8, 2013**

**Time: 1:30 p.m.**

**Courtroom: 2D**

**Judge: Hon. Gonzalo P. Curiel**

**ORAL ARGUMENT REQUESTED**

1 TO PLAINTIFF SECURITIES AND EXCHANGE COMMISSION, RECEIVER  
2 THOMAS E. HEBRANK, AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on November 8, 2013, at 1:30 p.m., or as  
4 soon thereafter as the matter may be heard in the above-entitled court, located at 221  
5 West Broadway, San Diego, California, in Courtroom 2D, Defendants LOUIS V.  
6 SCHOOLER (“Schooler”) and FIRST FINANCIAL PLANNING CORPORATION  
7 d/b/a WESTERN FINANCIAL PLANNING CORPORATION (“Western”)  
8 (collectively “Defendants”) will move pursuant to Rules 59(e) and 60(b) of the  
9 Federal Rules of Civil Procedure for partial reconsideration of the order issued by  
10 this Court on August 16, 2013 granting in part and denying in part Defendants’  
11 motion to modify the preliminary injunction order, to wit, the portion of Section  
12 II.G.2 of the Court’s Order that all of Western’s equity interests in the real estate  
13 general partnerships that are the subject of this action (“GPs”) be liquidated prior to  
14 the release of the GPs from the receivership (Dkt. No. 470, 25:20-26:9).

15 This motion is brought on the grounds that the Court’s order violates the due  
16 process rights of Western because it orders an immediate and permanent deprivation  
17 of Western’s property without affording Western the trial on the merits to which it is  
18 entitled. If the Court’s Order is not modified, Western will be deprived of the  
19 opportunity to present evidence to the trier of fact why it is entitled to retain its  
20 equity interests in the GPs, depriving it of due process.

21 Therefore, that portion of the Court’s order constitutes “any other reason that  
22 justifies relief” under Rule 60(b)(6), is also void as a violation of Western’s due  
23 process under Rule 60(b)(4), and is a committing of “clear error” producing an  
24 initial decision that “was manifestly unjust” under Rule 59(e), such that  
25 reconsideration is appropriate and necessary to avoid injustice.

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1 The motion will be based on this Notice of Motion and Motion, the  
2 Memorandum of Points and Authorities filed herewith, the pleadings and papers  
3 filed herein, and such oral argument as may be permitted and held.  
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5 DATE: August 28, 2013

Respectfully submitted,

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Counsel for Defendants

**CERTIFICATION**

I hereby certify that on the 28th day of August 2013, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following counsels of record:

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