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7 THOMAS C. HEBRANK

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

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

17 Defendants.
18
19

Case No. 3:12-cv-02164-GPC-JMA

**DECLARATION OF THOMAS C.
HEBRANK IN SUPPORT OF
MOTION FOR CIVIL CONTEMPT
AND SANCTIONS FOR VIOLATION
OF PRELIMINARY INJUNCTION
ORDER**

Date: January 16, 2015
Time: 1:30 p.m.
Ctrm.: 2D
Judge: Hon. Gonzalo P. Curiel

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1 I, Thomas C. Hebrank, declare as follows:

2 1. I am the Court-appointed receiver for First Financial Planning
3 Corporation d/b/a Western Financial Planning Corporation ("Western"), its
4 subsidiaries and the general partnerships organized by Western (collectively,
5 "Receivership Entities") in the above-captioned matter. I have personal knowledge
6 of the facts herein described, and if called to testify, I could and would testify
7 competently thereto. I make this declaration in support of my Motion for Civil
8 Contempt and Sanctions for Violation of Preliminary Injunction Order.

9 2. On September 4, 2012, the Securities and Exchange Commission filed a
10 complaint against Western and Louis Schooler, Western's principal. On September
11 6, 2012, this Court appointed the Receiver on a temporary basis. *See* Dkt. No. 10.
12 On March 13, 2013, this Court entered an order appointing the Receiver on a
13 permanent basis and granting the Securities and Exchange Commission's motion for
14 a preliminary injunction ("PI Order"). *See* Dkt. No 174.

15 3. Western's computer server was historically located at Western's offices
16 at 5186 Carroll Canyon Road, San Diego ("Carroll Canyon Property"). When
17 Schooler sold the Carroll Canyon Property in September 2013, I relocated Western's
18 offices. The Partnership Administrators declined to use the new offices provided by
19 me and instead moved to offices in Vista shared with Schooler. At that time, I
20 agreed, on a temporary basis, that the Western server would be maintained at the
21 Vista office.

22 4. Two very important duties assigned to me under the Preliminary
23 Injunction Order are to preserve and protect the Receivership Entities' property,
24 including electronic data, and to conserve receivership estate resources. I need the
25 server to be able to carry out these duties. The server needs to be backed up to
26 protect data in the event it is damaged or corrupted.

27 5. In addition, I need the server to be able to evaluate and get pricing on
28 moving the data to a new, more efficient investment tracking software. The existing

1 system uses antiquated, inefficient software and is dependent on a former Western
2 employee to maintain, update, and generate reports necessary for preparing tax
3 returns. Because the server has been located at the Vista office, I have not been able
4 to protect new data added to it or have potential vendors to perform the necessary
5 upgrades look at it.

6 6. On September 3, 2014, my associate, Geno Rodriguez, contacted the
7 Partnership Administrators and requested full access to the Western server. The
8 Partnership Administrators responded that Schooler would not grant such access and
9 the Receiver would have to address the issue with Schooler's counsel.

10 7. As of the date of this Declaration, I have spent 3.8 hours and my
11 associate Geno Rodriguez has spent 6 hours in our efforts to obtain the Western
12 computer server. In total we have incurred \$2,020.50. My hourly rate for the
13 receivership is \$247.50 and Mr. Rodriguez's hourly rate is \$180.00.

14 I declare under penalty of perjury under the laws of the State of California that
15 the foregoing is true and correct.

16 Executed this 31st day of October, 2014, at San Diego, California.

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19 THOMAS C. HEBRANK