

Gary J. Aguirre (SBN 38927)  
Aguirre Law, APC  
501 W. Broadway, Ste. 800  
San Diego, CA 92101  
Tel: 619-400-4960  
Fax: 619-501-7072  
Email: [Gary@aguirrelawfirm.com](mailto:Gary@aguirrelawfirm.com)

Attorney for Movants Susan Graham, Robert Churchill IRA, Robert Churchill Family Trust, Mark and Linda Clifton, Dennis and Diane Gilman, John and Mary Jenkins Trustees, the Ormonde Family Trust, Ronald Askeland, Douglas Sahlin IRA, Edith Sahlin IRA, George and Joan Trezek, Karen Coyne, James J. Coyne Jr. Trust, David Fife IRA, Leo and Cindy Dufresne, Leo T. Dufresne Jr. IRA, Darla Berkel IRA, William Nighswonger IRA, Juanita Bass, William V. and Carol J. Dascomb Trust, Robert Indihar IRA, Linda Baldwin IRA, Baldwin Family Survivors' Trust, Juanita Bass IRA, Matthew and Jennifer Berta, Randall S. Ingermanson IRA, Kimberly Dankworth, IDAC Family Group LLC, Robert S. Weschler, Karie J. Wright, D.F. Macy IRA, Stephen and Polly Yue, David Karp IRA, Iris Bernstein IRA, Lisa A. Walz, John and Mary Jenkins Trust

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

Defendants.

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

**MOVANTS' *EX PARTE* MOTION  
FOR ORDER ALLOWING TIME TO  
RESPOND TO RECEIVER'S *EX  
PARTE* APPLICATION FOR ORDER  
CONFIRMING THE SALE OF THE  
JAMUL VALLEY PROPERTY (DKT.  
NO. 1191)**

Ctrm: 2D

Judge: Hon. Gonzalo P. Curiel

By this *Ex Parte* application, Susan Graham, Robert Churchill IRA, Robert Churchill Family Trust, Mark and Linda Clifton, Dennis and Diane Gilman, John and Mary Jenkins Trustees, the Ormonde Family Trust, Ronald Askeland, Douglas Sahlin IRA, Edith Sahlin IRA, George and Joan Trezek, Karen Coyne, James J. Coyne Jr. Trust, David Fife IRA, Leo and Cindy Dufresne, Leo T. Dufresne Jr. IRA, Darla Berkel IRA, William Nighswonger IRA, Juanita Bass, William V. and Carol J. Dascomb Trust, Robert Indihar IRA, Linda Baldwin IRA, Baldwin Family Survivors' Trust, Juanita Bass IRA, Matthew and Jennifer Berta, Randall S. Ingermanson IRA, Kimberly Dankworth, IDAC Family Group LLC, Robert S. Weschler, Karie J. Wright, D.F. Macy IRA, Stephen and Polly Yue, David Karp IRA, Iris Bernstein IRA, Lisa A. Walz, John and Mary Jenkins Trust (Movants) seek an order allowing them through March 14, 2016, to file a response to Receiver's *Ex Parte* Application for Order Confirming Sale of Jamul Valley Property (Dkt. No. 1191)(Receiver's *Ex Parte* Application).

### **I. Introduction**

Through his *Ex Parte* Application, the Receiver proposes to sell the Jamul Valley property at a price that would return less than 1% (0.75%) to investors in two of the partnerships, Hidden Hills Partners and Lyons Valley Partners, and 14.5% to investors in the third, Jamul Meadows Partners.<sup>1</sup>

From 1988 through at least 2012, investors paid fees to maintain the taxes and the property. The Receiver then took control of the Jamul Valley property and 22 other properties in September 2012. By mid 2013, the Receiver had defaulted on paying property taxes and has allowed penalties to accrue on the unpaid taxes ever since.<sup>2</sup>

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<sup>1</sup> Receiver's Motion for (A) Authority to Conduct Orderly Sale of General Partnership Properties; (B) Approval of Plan of Distributing Receivership Assets; and (C) Approval of Procedures for the Administration of Investor Claims, Dkt. No. 1181-1 at 41.

<sup>2</sup> See ¶5 and Exhibit 3 to Declaration of Gary J. Aguirre in Support of Movants' *Ex Parte* Motion For Order Allowing Time To Respond To Receiver's *Ex Parte* Application For Order Confirming The Sale Of The Jamul Valley Property (Dkt. No. 1191) (Aguirre Declaration).

1 Likewise, the Receiver has failed to abate fire risks on the property since early 2015,  
2 despite two notices from the San Diego County Fire Authority.<sup>3</sup>

3 Bootstrapping these failures, the Receiver argues that Movants' request for a 13-  
4 day response time is intolerable because of the tax penalties and the enhanced fire risk.<sup>4</sup>  
5 Remarkably, the Receiver scraped together \$2.24 million since his appointment to pay  
6 himself and his colleagues, but could find no funds to pay the taxes on the properties so  
7 penalties would not accrue.

8 This is the second time the Receiver has doggedly opposed an investor motion for  
9 a brief extension to allow investors' counsel to familiarize himself with the factual and  
10 legal issues, prior holdings, and evidence before the Court. The Receiver's motion was  
11 exquisitely timed. It was filed and served on the exact day the investors' attorney, Gary  
12 Aguirre (Aguirre), told the Court he expected to be retained.<sup>5</sup> One might be forgiven for  
13 asking: was the timing coincidental?

14 Investors move the Court in the alternative to (1) set the Receiver's motion for  
15 hearing on April 29 to be heard with the Receiver's pending motion to sell the other 22  
16 properties owned by the partnerships or (2) allow their counsel until March 14 (12 days)  
17 so he can try to understand and advise his clients whether the sale of the Jamul Valley  
18 property is in their interest. We submit the first option allows the Court to determine  
19 whether to approve the sale of Jamul Valley property at the same time as it decides  
20 whether to direct the sales of the other 22 properties owned by the 87 partnerships which  
21 are the subject to the receivership. Doing so would also serve the interests of judicial  
22  
23

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24 <sup>3</sup> *Id.*, ¶¶ 5 and 6 and Exhibits 3 and 4.

25 <sup>4</sup> *Id.*, ¶¶ 4-6 and Exhibits 2-4.

26 <sup>5</sup> See applicant Susan Graham's Ex Parte Application for Order Reinstating or  
27 Extending the Period to Respond to Receiver's Motion for (A) Authority to Conduct  
28 Orderly Sale of General Partnership Properties; (B) Approval of Plan of Distributing  
Receivership Assets; and (C) Approval of Procedures for the Administration of Investor  
Claims (Dkt. No.1184).

1 economy since the Court would deal only once with the issue whether the properties  
2 should be sold and, if so, in what manner.

3 Further, there is no basis in the record before this Court upon which the Court  
4 could conclude that the properties are being sold for a price near their value. The 2013  
5 “appraisal” is stale and deeply flawed.<sup>6</sup> The 2015 “broker’s valuations” have never been  
6 submitted to this Court. Consequently, there are no grounds for the Court to make any  
7 determination that the sales price for the Jamul Valley property is remotely in the range  
8 of its actual value. As stated below, Movants are also moving to strike any statement in  
9 the record before the Court relating to the valuation of the Jamul Valley property, since  
10 there is no valid expert opinion anywhere in the record that would support the Receiver’s  
11 statements of the value of the property.

12 The Receiver characterizes his Ex Parte Application to sell the Jamul Valley  
13 property as if he is correcting a clerical error. The truth is the title company could find no  
14 authority in the record allowing the Receiver to sell the Jamul Valley property. This  
15 oversight picked up by the title company flags a deficiency in these proceedings. The  
16 Court has not granted the Receiver authority to sell the Property. Indeed, Movants’  
17 counsel believes this is the first action taken by the Receiver to sell the property which  
18 investors could challenge.

19 As discussed below, the Receiver has doggedly and groundlessly sought to prevent  
20 Movants’ counsel from getting even the briefest period to immerse himself in the facts  
21 and law of this case. Rather, the Receiver presses the Court to approve the sale at a price  
22 that finds no support anywhere in the record. There is another inference which may be  
23 drawn from the Receiver’s otherwise puzzling conduct: his motion could not withstand  
24 the intensity of a full hearing.

25 ///

26 ///

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27 <sup>6</sup> See Exhibit B, pages 79 to 81 to Receiver’s Report and Recommendations Regarding  
28 Valuation of Real Estate Assets of Receivership Entities (Dkt. No. 203).

## II. Investors Would Be Severely Prejudiced

To state the issue is to state the prejudice: would investors be legally prejudiced by denying them 12 days so their attorney can assess whether the sale of the Jamul Valley property (which they invested in almost 30 years ago and have maintained until the Receiver was appointed) serves their best interest? Not enough prejudice, asserts the Receiver. The tax penalties and fire hazard, which the Receiver still fails to abate, are far too high.<sup>7</sup>

And then there is the larger group of investors Aguirre Law declined to represent last month after the Receiver published the projected refunds to investors. We respectfully refer the Court to the declaration of David Karp, the chair of the ad hoc investors committee, who describes how approximately 150 investors are now seeking counsel to represent them in this case.<sup>8</sup>

One of those investors, Alejandro Haua, a Los Angeles County firefighter, invested \$121,000 in four partnerships. He describes the challenges he now faces in trying to retain counsel:

5. Since mid February, I have been trying to retain counsel to represent the Investors Group. Over the past week, I have interviewed three law firms for the purpose of having one of them represent the Investors Group. I have been in communication with the Investors Group regarding this project.
6. I found this process to be extremely complicated and challenging. I have reached out to other investors in the Investors Group who are attorneys and I am now consulting with them regarding the retention of counsel. I believe some of the investors in the Investors Group are investors in the

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<sup>7</sup> Aguirre Declaration, ¶¶ 4-6 and Exhibits 2-4.

<sup>8</sup> Declaration of David Karp in Support of Movants' *Ex Parte* Motion For Order Allowing Time To Respond To Receiver's *Ex Parte* Application For Order Confirming The Sale Of The Jamul Valley Property. (Karp Declaration), ¶ 8.

Jamul Valley property, which is the subject of the Receiver's *Ex Parte* Application for Order Confirming Sale of Jamul Valley Property.<sup>9</sup>

### III. The Receiver's Values for the Jamul Valley Property Are Unreliable or Non-Existent

The only appraisal before this Court is the Receiver's 2013 appraisal,<sup>10</sup> which is now out of date and deeply flawed. Movants cannot obtain an appraisal of the property in a few days. Nor can they obtain the appraisal by March 14, though they could respond in more depth to this groundless *Ex Parte* Motion. Movants would struggle to obtain an appraisal by April 8, the filing date for their opposition.

Movants' counsel has conferred with Robert Backer, a well credentialed MAI. Mr. Backer has informally advised Movants' counsel as follows:

- The 2013 appraisals on the Jamul Valley property are three years old and are flawed to the point of not being reliable;
- The appraiser's analysis fails to address the factors that impact the value of these properties;
- According to the County data, the properties are designated SR-4 which allows residential development at one unit per 4, 8, or 16 acres depending on topography;
- Subdivision potential is not addressed in the Receiver's appraisals although both of the appraised parcels have potential for subdivision;
- Backer's search of MLS data indicates that current values in the Jamul area are as high as \$8,500 per acre;
- Mitigation or preservation uses are also potentially the highest and best use of the property;

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<sup>9</sup> Declaration of Alejandro Haua in Support of Movants' *Ex Parte* Motion For Order Allowing Time To Respond To Receiver's *Ex Parte* Application For Order Confirming The Sale Of The Jamul Valley Property, ¶¶ 5-6.

<sup>10</sup> Exhibit B to Receiver's Report and Recommendations Regarding Valuation of Real Estate Assets of Receivership Entities (Dkt. No. 203).

- 1 • The San Diego Association of Governments (SANDAG) purchased approximately
- 2 1,905 acres in Jamul for \$18,000,000 (\$9,449/acre) in 2012;
- 3 • The subject property has biological resources that make it attractive for mitigation
- 4 or preservation use;
- 5 • Without a formal appraisal that considers the potential highest and best uses of
- 6 these properties, it is not possible to evaluate the reasonableness of the current
- 7 offer from The Nature Conservancy.<sup>11</sup>

#### 8 **IV. Movants' Motion to Strike**

9 Movants move to strike all references in the record relating to the valuations of the  
 10 Jamul Valley property to the extent relied upon by the Receiver's *Ex Parte* on the grounds  
 11 of relevancy, hearsay, the best evidence rules, and lack of authentication.

#### 12 **V. Neither the SEC Nor the Receiver Would Be Prejudiced**

13 Neither the Receiver, nor the SEC, nor the Defendants can credibly argue that  
 14 Movants' requested relief prejudices them. The sole issue is whether the only asset  
 15 owned by two partnerships will be sold at a price that would generate a return of less than  
 16 1% to approximately 80 investors. By definition, the only conceivable harm is to the  
 17 investors. And these investors are merely asking: "May we have a minute to take a closer  
 18 look at what our protectors are proposing," protectors who have thus far been awarded  
 19 \$2.24 million for their troubles.

20 Notably, the Receiver does not argue that the sale of the property would be at risk  
 21 if Movants' motion were granted. He cannot make this argument. The closing of the sale  
 22 is scheduled for June 30, 2016, two months after the hearing date of April 29.<sup>12</sup>

23 The Receiver contends that his estate would suffer "significant harm" due to the  
 24 penalty rate accrual on the taxes which he allowed to fall into default in mid-2013. See  
 25 Exhibits 1 through 4 to the Declaration of Gary J. Aguirre filed herewith. According to

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26  
 27 <sup>11</sup> Aguirre Declaration, ¶7.

28 <sup>12</sup> Purchase and Sale Agreement to TNC (including Amendments), Exhibit A, page 29  
 to Receiver's *Ex Parte* Application (Dkt. No. 1191).



the San Diego County Tax Collector's website, the monthly penalty on one property is \$445.62 and on the other is \$134.76, for a total monthly penalty of \$538.38. This is a daily rate of \$17.37. Movants would happily pay the Receiver's estate, the collective property of all investors, the total penalty for this 13-day period: \$243.38. This is the significant harm which, according to the investors' protector, should deprive investors in three partnerships a few days to present their response. The Receiver seems to have lost his capacity to place issues into their true perspective.

And then there is the second example of the Receiver's haphazard management of the Jamul property: his failure to abate the putative fire hazard at the property for one year despite his receipt of two notices warning him of the condition.<sup>13</sup> Somehow this condition has become so dangerous that the risk of a 12-day delay is prohibitively high, yet not high enough for the Receiver to abate it. This "in-between risk" (too high to postpone, but too low to abate) is very handy: it has no cost, can be ignored at will, but it is there when needed.

## **VI. Movants' Counsel Is Still in the Process of Being Retained**

As discussed above, Movant Graham informed the Court and the Receiver that the investors expected to retain Aguirre Law to represent them by February 26, 2016.<sup>14</sup> On that same day, the Receiver filed and served his ex parte application for an order to sell *the first of the 23 properties*, the Jamul Valley property. There was no urgency or necessity for the Receiver to seek confirmation of the sale through an ex parte application filed on the date the investors would be first represented by counsel. We respectfully submit this motion could have and should have been set for hearing April 29, when the Receiver's other motion seeking authority to sell the other 22 properties (Dkt. No. 1181) will be heard.

Movants' counsel is still in the process of being retained. On February 27, 2016, he discovered an additional ground for possible conflicts of interest among his prospective

<sup>13</sup> Aguirre Declaration, ¶¶ 5-6 and Exhibits 3 and 4.

<sup>14</sup> *Supra*, n. 5.



clients.<sup>15</sup> He has determined the investors who bring this motion do not have a conflict among themselves. The review process is time-consuming. He expects to complete the review of possible conflicts among his prospective clients by Thursday, March 3. Then he can turn his attention to the legal and factual issues relating to this case and the proposed sale of the Jamul Valley property. Accordingly, should the Court decide not to set the Receiver's motion for hearing on April 29, we request the Court to allow Movants' counsel at least through March 14 to dig deeper into the issues relating to the Jamul Valley property, advise his clients of his conclusions, and file a response to the Receiver's *Ex Parte*.

DATED: March 2, 2016

Respectfully submitted,

By:           /s/ Gary J. Aguirre            
 GARY J. AGUIRRE  
 Aguirre Law, A.P.C.  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)  
 Attorney for Movants

<sup>15</sup> Aguirre Declaration ¶ 10 and David Karp's Declaration ¶¶ 8-10.

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Aguirre Law, APC  
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San Diego, CA 92101  
Tel: 619-400-4960  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

Defendants.

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

**DECLARATION OF ALEJANDRO  
HAUA IN SUPPORT OF MOVANTS'  
EX PARTE MOTION FOR ORDER  
ALLOWING TIME TO RESPOND  
TO RECEIVER'S EX PARTE  
APPLICATION FOR ORDER  
CONFIRMING THE SALE OF THE  
JAMUL VALLEY PROPERTY (DKT.  
NO. 1191)**

Ctrm: 2D

Judge: Hon. Gonzalo P. Curiel

1 1. I have personal knowledge of the facts set forth in this Declaration and, if called as  
2 a witness, could and would testify competently to such facts under oath.

3 2. By occupation I am a firefighter for Los Angeles County Fire Department.

4 3. I have invested personally and through my corporation approximately \$121,000 in  
5 four partnerships formed by First Financial Planning Corporation, doing business as  
6 Western Financial Planning.


7 4. I am one of a large number of investors that Aguirre Law, APC (Aguirre Law)  
8 declined to represent because of conflicts of interest (Investors Group). Accordingly, I am  
9 not represented by Aguirre Law.

10 5. Since mid February, I have been trying to retain counsel to represent the Investors  
11 Group. Over the past week, I have interviewed three law firms for the purpose of having  
12 one of them represent the Investors Group. I have been in communication with the  
13 Investors Group regarding this project.

14 6. I found this process to be extremely complicated and challenging. I have reached  
15 out to other investors in the Investors Group who are attorneys and I am now consulting  
16 with them regarding the retention of counsel. I believe some of the investors in the  
17 Investors Group are investors in the Jamul Valley property, which is the subject of the  
18 Receiver's *Ex Parte* Application for Order Confirming Sale of Jamul Valley Property.

19 7. By this declaration I request the Court to allow me through Friday, March 11,  
20 2016, to retain counsel who can appear on behalf of the Investors Group and me in this  
21 case. This is the minimum time I would need to retain counsel and for that counsel to file  
22 a response to the Receiver's *Ex Parte* Application for Order Confirming Sale of Jamul  
23 Valley Property.

24 Executed this 1st day of March 2016 in Trabuco Canyon, California. I declare  
25 under penalty of perjury under the laws of the United States that the foregoing is true and  
26 correct.

27   
28 ALEJANDRO HAUA

Gary J. Aguirre (SBN 38927)  
Aguirre Law, APC  
501 W. Broadway, Ste. 800  
San Diego, CA 92101  
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Case No.: 3:12-cv-02164-GPC-JMA

**DECLARATION OF DAVID KARP  
IN SUPPORT OF MOVANTS' *EX  
PARTE* MOTION FOR ORDER  
ALLOWING TIME TO RESPOND  
TO RECEIVER'S *EX PARTE*  
APPLICATION FOR ORDER  
CONFIRMING THE SALE OF THE  
JAMUL VALLEY PROPERTY (DKT.  
NO. 1191)**

Ctrm: 2D

Judge: Hon. Gonzalo P. Curiel

1 I, David Karp, declare:

2 1. I am an attorney licensed to practice in the State of Arizona. I have personal  
3 knowledge of the facts set forth in this Declaration and, if called as a witness, could and  
4 would testify competently to such facts under oath.

5 2. I have invested approximately \$230,000 in 10 partnerships formed by First  
6 Financial Planning Corporation, doing business as Western Financial Planning.

7 3. I have been the acting chair of the ad hoc investors committee which was  
8 informally created to select counsel to represent investors in this case. I began a second  
9 round of discussions in 2015 to retain Aguirre Law, APC, (Aguirre Law) to represent  
10 investors in this case. From that date to the present, I have had numerous discussions with  
11 both investors and Gary Aguirre (Aguirre) to retain his firm to represent investors.

12 4. The process of retaining and finalizing an agreement with counsel has been  
13 extremely challenging for multiple reasons, not the least of which is the discovery of the  
14 existence of unknown conflicts of interest among investors.

15 5. These conflicts first arose after the Receiver filed his Motion for (A) Authority to  
16 Conduct Orderly Sale of General Partnership Properties; (B) Approval of Plan of  
17 Distributing Receivership Assets; and (C) Approval of Procedures for the Administration  
18 of Investor Claims (Docket No. 1181) (Receiver's Motion). At that time, more than 250  
19 investors had reached an agreement with Aguirre Law to represent them.

20 6. As a consequence of the Receiver's Motion, Aguirre Law declined to represent  
21 approximately 150 investors.

22 7. I am aware and to some extent have been involved in the efforts by those investors  
23 to retain counsel. A spokesman for those investors has been involved in discussions and  
24 negotiations with law firms over the past two weeks for representation of these investors.  
25 I have been informed that conflicts issues have arisen in that process and have delayed  
26 this group from retaining counsel.

27 8. After Aguirre Law declined to represent approximately 150 investors, I became  
28 involved in the process of renegotiating a retainer agreement with Aguirre Law and



1 assisting in the screening of investors to identify those with conflicts. By February 26,  
2 this process had been completed and it appeared Aguirre Law would be retained.

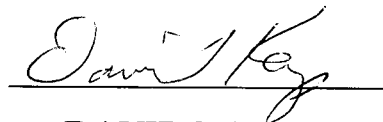
3 9. Prior to the retainer agreements being returned, after reviewing the files in this  
4 case, Aguirre Law found a second basis for a conflict of interest among a subgroup of  
5 investors who had signed and submitted a second set of retainer agreements to him. As a  
6 consequence, Aguirre Law has declined to represent some investors who had signed and  
7 returned retainer agreements. This will require some renegotiating among investors,  
8 which is currently ongoing, and is expected to be completed by March 3, 2016.

9 10. I am now assisting Aguirre Law in identifying other investors who may be subject  
10 to the same conflict of interest under the second basis. This process is expected to be  
11 completed by March 3, 2016.

12 11. I am also in communications with the investor who is leading the effort to retain  
13 counsel for the first group of investors Aguirre Law declined to represent because of  
14 conflicts of interest. They are diligently working to retain counsel to meet the timetable  
15 set by the Court's order of February 22, 2016 (Dkt. No. 1188).

16 I declare under penalty of perjury under the laws of the United States that the  
17 foregoing is true and correct.

18 Executed this 1st day of March 2016 at Tucson, Arizona.

19  
20   
21 DAVID KARP

Gary J. Aguirre (SBN 38927)  
Aguirre Law, APC  
501 W. Broadway, Ste. 800  
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1 I, Gary J. Aguirre, declare as follows

2 1. I have personal knowledge of the facts set forth in this Declaration and, if  
3 called as a witness, could and would testify competently to such facts under oath.

4 2. I am the attorney for the following investors in partnerships with ownership  
5 interests in each of the 23 properties which are the subject of the receivership: Susan  
6 Graham, Robert Churchill IRA, Robert Churchill Family Trust, Mark and Linda Clifton,  
7 Dennis and Diane Gilman, John and Mary Jenkins Trustees, the Ormonde Family Trust,  
8 Ronald Askeland, Douglas Sahlin IRA, Edith Sahlin IRA, George and Joan Trezek,  
9 Karen Coyne, James J. Coyne Jr. Trust, David Fife IRA, Leo and Cindy Dufresne, Leo T.  
10 Dufresne Jr. IRA, Darla Berkel IRA, William Nighswonger IRA, Juanita Bass, William  
11 V. and Carol J. Dascomb Trust, Robert Indihar IRA, Linda Baldwin IRA, Baldwin  
12 Family Survivors' Trust, Juanita Bass IRA, Matthew and Jennifer Berta, Randall S.  
13 Ingermanson IRA, Kimberly Dankworth, IDAC Family Group LLC, Robert S. Weschler,  
14 Karie J. Wright, D.F. Macy IRA, Stephen and Polly Yue, David Karp IRA, Iris Bernstein  
15 IRA, Lisa A. Walz, John and Mary Jenkins Trust.

16 3. I had two sets of communications with the Receiver's counsel regarding the  
17 allowance of time for me to file opposition to the his *Ex Parte* Application for Order  
18 Confirming the Sale of the Jamul Valley Property (Dkt. No. 1191) (Receiver's *Ex Parte*).  
19 In the first exchange, I requested the Receiver to agree that his *Ex Parte* relating to the  
20 sale of the Jamul Valley property be set for hearing with his motion relating to the sale of  
21 the other 22 properties owned by the partnerships which are the subject of the  
22 receivership on April 29, 2016 (Receiver's Motion for (A) Authority to Conduct Orderly  
23 Sale of General Partnership Properties; (B) Approval of Plan of Distributing Receivership  
24 Assets; and (C) Approval of Procedures for the Administration of Investor Claims  
25 (Docket No. 1181)). Receiver's counsel refused to agree to this proposal. A true and  
26 correct copy of the email chain relating to this exchange is attached as Exhibit 1.

27 4. Since Receiver's counsel insisted that his *Ex Parte* deal with the merits of  
28 his motion to confirm the sale of the Jamul Valley property, I requested Receiver's

1 counsel to allow the investors I represent until March 14, 2016, to respond to his motion.  
2 Receiver's counsel refused to agree. A true and correct copy of the email chain relating to  
3 this exchange is attached as Exhibit 2. As grounds for his refusal to allow to the 13-day  
4 extension for filing my clients' response in Exhibit 2, Receiver's counsel gave the  
5 following reason:

6       16 [sic] days is an extremely long time for a response to a relatively simple  
7 *ex parte* motion. The Court has already approved/authorized the sale of the  
8 Jamul Valley property and the motion is only necessary to address a title  
9 insurance issue with the form of order. As I explained yesterday, the delay  
10 causes significant harm as interest continues to accrue on unpaid taxes and  
11 there is an immediate concern regarding the fire code violation/brush  
clearing/potential lien. If you could explain your grounds for opposing the  
motion and why the requested 16 days are necessary, we can respond.

12       5. I next had a series of email exchanges with the Receiver's counsel regarding  
13 the factual basis for his statement in paragraph 4 above. I requested the Receiver's  
14 counsel to "provide me with documentation indicating (1) when the fire hazard was first  
15 discovered by the Receiver, its location and what steps he has taken since then to abate it  
16 and (2) the date when interest began to accrue on unpaid taxes on the Jamul Valley  
17 property." Receiver's counsel replied with an email explaining that "the Receiver first  
18 learned of the [fire] issue on September 17, 2015. It appears that a notice was sent  
19 sometime early in 2015, but the notice was never passed on to the Receiver by Ms.  
20 Jacobson or Ms. Schuler." Receiver's counsel attached to his email copies of the  
21 statements of the San Diego County Treasurer-Tax Collector for Lyons Valley Partners  
22 and Jamul Meadows Partners and Hidden Valley Hills Partners related to the Jamul  
23 Valley Property showing "the taxes went into default in June 2013, which indicates the  
24 payment due in April 2013 was not paid and interest began to accrue at that point." I  
25 then requested the Receiver's counsel to "provide me with a copy of the notice regarding  
26 the fire code issue" mentioned in his email. True and correct copies of those  
27 communications and attachments are attached hereto as Exhibit 3.

28 ///

1           6.     By his email of 5:02 p.m. and in response to my request, the Receiver's  
2 counsel forwarded the notice sent by a San Diego County Fire Authority Code Enforcer  
3 Officer to the Receiver on September 17, 2015. A true and correct copy of said email is  
4 attached hereto as Exhibit 4.

5           7.     On February 29, 2016, I communicated with Robert Backer, an MAI,  
6 regarding the proposed sale and the valuation in the appraisal of the Jamul Valley  
7 property. Mr. Backer curriculum vitae is attached hereto as Exhibit 5. Mr. Backer  
8 provided me with the following information regarding the property:

9           Regarding the appraisals, I can say that they almost three years old and are  
10 flawed to the point of not being reliable. The analysis is woefully inadequate  
11 failing to seriously address the factors that impact the value of these  
12 properties.

13           There are two potential highest and best uses for these properties. According  
14 to the County data, the properties are designated SR-4 which allows  
15 residential development at one unit per 4, 8, or 16 acres depending on  
16 topography. Subdivision potential is not addressed in the Marsella appraisals  
17 although both of the appraised parcels have potential for subdivision. My  
18 search of MLS data indicates that current values in the Jamul area are as  
19 high as \$8,500 per acre. Satellite images with parcel line overlays illustrating  
20 the development adjacent to the subject parcels are attached as exhibits A  
21 and B.

22           Mitigation or preservation uses are also potentially the highest and best use  
23 of the property. The San Diego Association of Governments (SANDAG)  
24 purchased approximately 1,905 acres in Jamul for \$18,000,000 (\$9,449/acre)  
25 in 2012. The subject property has biological resources that make it attractive  
26 for mitigation or preservation use.

27           Without a formal appraisal that considers the potential highest and best uses  
28 of these properties, it is not possible to evaluate the reasonableness of the  
current offer from The Nature Conservancy.

          8.     On February 18, I filed an *Ex Parte* Application on behalf of Susan Graham  
for Order Reinstating or Extending the Period to Respond to Receiver's Motion for (A)

1 Authority to Conduct Orderly Sale of General Partnership Properties; (B) Approval of  
2 Plan of Distributing Receivership Assets; and (C) Approval of Procedures for the  
3 Administration of Investor Claims (Dkt. No 1184) (Application). The Application was  
4 granted and the Court set the date for the filing of Movants' opposition papers for April  
5 8, 2016, and reset the hearing date for April 29, 2016.

6 9. I had informed the Court in the Application referred to in paragraph 8 herein that I  
7 expected to be retained by approximately 90 investors by Friday, February 26, 2016. As  
8 expected, approximately 90 investors submitted signed retainer agreements to me by  
9 February 26, 2016.

10 10. Prior to signing and returning the retainer agreements, after reviewing the files in  
11 this case, I found a second basis for a conflict of interest among a subgroup of investors  
12 who had signed and submitted a second set of retainer agreements to me. As a  
13 consequence, I have declined to represent some of the investors who had signed and  
14 returned retainer agreements. I am now in the process of deciding whether other  
15 prospective clients are subject to this conflict of interest and expect to decline the  
16 representation of a few other prospective clients.

17 Executed this 2<sup>nd</sup> day of March 2016, at San Diego, California.

18 I declare under penalty of perjury under the laws of the United States that the  
19 foregoing is true and correct.

20  
21 /s/ Gary J. Aguirre  
22 GARY J. AGUIRRE  
23  
24  
25  
26  
27  
28

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# Exhibit 1

**Gary Aguirre**

---

**From:** Fates, Ted [tfates@allenmatkins.com]  
**Sent:** Monday, February 29, 2016 4:25 PM  
**To:** Gary Aguirre  
**Cc:** Thomas C. Hebrank (thebrank@ethreadvisors.com); DeanL@sec.gov; phildysonlaw@gmail.com; berryj@sec.gov; Zaro, David; KALINS@SEC.GOV  
**Subject:** RE: SEC v. Schooler

Mr. Aguirre,

The Receiver would oppose the two-month delay you propose in closing the sale. First, the sale was approved/authorized by the Court in June 2015. The Receiver has reported on the status of the negotiations and sale process in each of his reports since that time. The sole reason for the ex parte application is that the title insurance company required specific provisions in the order. Otherwise, the sale would have already closed.

Additionally, the proposed delay would harm the GPs that own the property, the receivership estate generally, and the approximately 3,300 investors in this case in that:

1. There is more than \$50,000 in past due property taxes because the GPs have not been able to raise sufficient cash from investors to pay. Note, San Diego County does not accept partial tax payments. Another \$6,748 is due on April 10, 2016 and a penalty will be assessed on that date if the payment is not made. Interest in the amount of 1.5% per month (18% per year) accrues on all past due taxes until the amount due is paid in full.
2. A notice of a fire code violation for the property was recently issued because certain trees/brush are apparently not sufficiently kept back from houses that neighbor the property. This presents a potential safety risk. Again, the GPs are unable to pay for the brush to be cleared. If the sale does not close soon, the work will be done by the county and a lien will be placed on the property, further diminishing the net recovery from the sale.

For these reasons, the Receiver would oppose the approximately two-month delay you propose.

Regards,

**Ted Fates Esq.**

Partner

Allen Matkins Leck Gamble Mallory & Natsis LLP

501 West Broadway, 15th Floor, San Diego, CA 92101-3541

(619) 233-1155 (main)

(619) 235-1527 (direct)

(619) 886-4466 (mobile)

(619) 233-1158 (fax)

**Allen Matkins**  
CHALLENGE. OPPORTUNITY. SUCCESS.

**From:** Gary Aguirre [mailto:gary@aguirrelawapc.com]  
**Sent:** Monday, February 29, 2016 3:20 PM  
**To:** Fates, Ted <tfates@allenmatkins.com>  
**Cc:** Thomas C. Hebrank (thebrank@ethreadvisors.com) <thebrank@ethreadvisors.com>; DeanL@sec.gov;



phildysonlaw@gmail.com; berryj@sec.gov; Zaro, David <dzaro@allenmatkins.com>; KALINS@SEC.GOV

**Subject:** RE: SEC v. Schooler

Mr. Fates:

I would appreciate your responding by 5 p.m. to my email below, as I would like to file something with the court.

Frankly, I believe it would be a waste of the court's time to brief the issue whether the ex parte should be coordinated with the hearing scheduled for April 29, which deals more broadly with the same issue, sales of properties.

Further, is it really necessary for you to file and serve the ex parte motion when you know I am in the process of being retained, assisting other investors finding counsel, and have not had time to retain expert consultants in this case?

Please advise.

Regards,

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
Tel: 619-400-4960  
Fax: 619-501-7072

[www.aguirrelawapc.com](http://www.aguirrelawapc.com)

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---

**From:** Gary Aguirre  
**Sent:** Monday, February 29, 2016 12:05 PM  
**To:** 'Fates, Ted'; [KALINS@SEC.GOV](mailto:KALINS@SEC.GOV); [DeanL@sec.gov](mailto:DeanL@sec.gov); [phildysonlaw@gmail.com](mailto:phildysonlaw@gmail.com); 'berryj@sec.gov'  
**Cc:** Thomas C. Hebrank ([thebrank@ethreeadvisors.com](mailto:thebrank@ethreeadvisors.com))  
**Subject:** RE: SEC v. Schooler

Mr. Fates:

For the sake of clarity, I will be asking the court to put over your ex parte motion to April 29, the same day as your other motion, and use the same briefing schedule. Is there some reason that schedule would not work for your client?

If so, please explain why that schedule would prejudice the Receiver.

Regards,

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
Tel: 619-400-4960  
Fax: 619-501-7072

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---

**From:** Fates, Ted [<mailto:tfates@allenmatkins.com>]  
**Sent:** Monday, February 29, 2016 10:50 AM  
**To:** Gary Aguirre; [KALINS@SEC.GOV](mailto:KALINS@SEC.GOV); [DeanL@sec.gov](mailto:DeanL@sec.gov); [phildysonlaw@gmail.com](mailto:phildysonlaw@gmail.com)  
**Cc:** Thomas C. Hebrank ([thebrank@ethreeadvisors.com](mailto:thebrank@ethreeadvisors.com))  
**Subject:** RE: SEC v. Schooler

Mr. Aguirre,

The Receiver will not oppose, provided he has at least two business days to file his reply.

Thank you,

**Ted Fates Esq.**

Partner  
Allen Matkins Leck Gamble Mallory & Natsis LLP  
501 West Broadway, 15th Floor, San Diego, CA 92101-3541  
(619) 233-1155 (main)  
(619) 235-1527 (direct)  
(619) 886-4466 (mobile)  
(619) 233-1158 (fax)

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---

**From:** Gary Aguirre [<mailto:gary@aguirrelawapc.com>]  
**Sent:** Monday, February 29, 2016 10:02 AM  
**To:** Fates, Ted <[tfates@allenmatkins.com](mailto:tfates@allenmatkins.com)>; [KALINS@SEC.GOV](mailto:KALINS@SEC.GOV); [DeanL@sec.gov](mailto:DeanL@sec.gov); [phildysonlaw@gmail.com](mailto:phildysonlaw@gmail.com)  
**Cc:** Thomas C. Hebrank ([thebrank@ethreeadvisors.com](mailto:thebrank@ethreeadvisors.com)) <[thebrank@ethreeadvisors.com](mailto:thebrank@ethreeadvisors.com)>  
**Subject:** SEC v. Schooler

Good morning:

Would you kindly advise me before noon today whether you have any objection to the court allowing me until Friday, March 4, to file a response to the Receiver's ex parte application for an order confirming his sale of the Jamul property?

I look forward to hearing from you.

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
Tel: 619-400-4960  
Fax: 619-501-7072

[www.aguirrelawapc.com](http://www.aguirrelawapc.com)

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# Exhibit 2

**Gary Aguirre**

---

**From:** Fates, Ted [tfates@allenmatkins.com]  
**Sent:** Tuesday, March 01, 2016 2:05 PM  
**To:** Gary Aguirre  
**Cc:** Thomas C. Hebrank (thebrank@ethreadvisors.com)  
**Subject:** RE: SEC v. Schooler

Mr. Aguirre,

16 days is an extremely long time for a response to a relatively simple *ex parte* motion. The Court has already approved/authorized the sale of the Jamul Valley property and the motion is only necessary to address a title insurance issue with the form of order. As I explained yesterday, the delay causes significant harm as interest continues to accrue on unpaid taxes and there is an immediate concern regarding the fire code violation/brush clearing/potential lien. If you could explain your grounds for opposing the motion and why the requested 16 days are necessary, we can respond.

Thank you,

**Ted Fates Esq.**

Partner  
Allen Matkins Leck Gamble Mallory & Natsis LLP  
501 West Broadway, 15th Floor, San Diego, CA 92101-3541  
(619) 233-1155 (main)  
(619) 235-1527 (direct)  
(619) 886-4466 (mobile)  
(619) 233-1158 (fax)

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**From:** Gary Aguirre [mailto:gary@aguirrelawapc.com]  
**Sent:** Tuesday, March 1, 2016 1:17 PM  
**To:** Fates, Ted <tfates@allenmatkins.com>  
**Cc:** Thomas C. Hebrank (thebrank@ethreadvisors.com) <thebrank@ethreadvisors.com>  
**Subject:** SEC v. Schooler

Mr. Fates:

You have insisted that the Receiver's *ex parte* motion be heard on the merits. Would you agree to a March 13 filing date for our opposition papers?

A simple yes or no will suffice.

Sincerely,

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101

Tel: 619-400-4960

Fax: 619-501-7072

[www.aguirrelawapc.com](http://www.aguirrelawapc.com)

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# Exhibit 3



## Gary Aguirre

---

**From:** Gary Aguirre  
**Sent:** Tuesday, March 01, 2016 4:54 PM  
**To:** 'Fates, Ted'  
**Subject:** RE: SEC v. Schooler

Mr. Fates:

Would you be so kind to provide me with a copy of the notice regarding the fire code issue?

Thanks,

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
Tel: 619-400-4960  
Fax: 619-501-7072

[www.aguirrelawapc.com](http://www.aguirrelawapc.com)

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---

**From:** Fates, Ted [mailto:tfates@allenmatkins.com]  
**Sent:** Tuesday, March 01, 2016 3:39 PM  
**To:** Gary Aguirre  
**Cc:** Thomas Hebrank  
**Subject:** RE: SEC v. Schooler

Mr. Aguirre,

As you know, the day to day administration of the GPs was being handled by Alice Jacobson and Beverly Schuler until March 2015. At that time, the Court approved the Receiver's request to replace them with Lincoln Property Group.

With regard to the fire code issue, the Receiver first learned of the issue on September 17, 2015. It appears that a notice was sent sometime early in 2015, but the notice was never passed on to the Receiver by Ms. Jacobson or Ms. Schuler. Since learning of the issue in September 2015, the Receiver has been in contact with the San Diego County Fire Authority on several occasions to discuss the issue. The Receiver has also obtained an estimate from a landscaping company to clear the brush at issue (which estimate is approximately \$6,000 to \$10,000). Unfortunately, the GPs have not had sufficient funds on hand to pay for the work to be done. Just in the past week, the SDCFA advised that it intends to clear the brush itself and will place a lien on the property once the work is done.

With regard to the property taxes, attached are property tax statements for the property, which are publicly available. The documents show the taxes went into default in June 2013, which indicates the payment due in April 2013 was not paid and interest began to accrue at that point. Note, the assessed value of the property was reduced by about

\$168,000 as a result of the Receiver's property tax appeal, so the amount of taxes due for 2015-2016 is less than prior years.

Regards,

**Ted Fates Esq.**

Partner

Allen Matkins Leck Gamble Mallory & Natsis LLP

501 West Broadway, 15th Floor, San Diego, CA 92101-3541

(619) 233-1155 (main)

(619) 235-1527 (direct)

(619) 886-4466 (mobile)

(619) 233-1158 (fax)

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**From:** Gary Aguirre [<mailto:gary@aguirrelawapc.com>]

**Sent:** Tuesday, March 1, 2016 2:11 PM

**To:** Fates, Ted <[tfates@allenmatkins.com](mailto:tfates@allenmatkins.com)>

**Cc:** Thomas C. Hebrank ([thebrank@ethreadvisors.com](mailto:thebrank@ethreadvisors.com)) <[thebrank@ethreadvisors.com](mailto:thebrank@ethreadvisors.com)>

**Subject:** RE: SEC v. Schooler

Mr. Fates:

Would you kindly provide me with documentation indicating (1) when the fire hazard was first discovered by the Receiver, its location and what steps he has taken since then to abate it and (2) the date when interest began to accrue on unpaid taxes on the Jamul Valley property.

Thanks,

Gary J. Aguirre

Aguirre Law, APC

501 W. Broadway, Suite 800

San Diego, CA 92101

Tel: 619-400-4960

Fax: 619-501-7072

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**Sent:** Tuesday, March 01, 2016 2:05 PM

**To:** Gary Aguirre

**Cc:** Thomas C. Hebrank ([thebrank@ethreadvisors.com](mailto:thebrank@ethreadvisors.com))

**Subject:** RE: SEC v. Schooler

Mr. Aguirre,

16 days is an extremely long time for a response to a relatively simple *ex parte* motion. The Court has already approved/authorized the sale of the Jamul Valley property and the motion is only necessary to address a title insurance issue with the form of order. As I explained yesterday, the delay causes significant harm as interest continues to accrue on unpaid taxes and there is an immediate concern regarding the fire code violation/brush clearing/potential lien. If you could explain your grounds for opposing the motion and why the requested 16 days are necessary, we can respond.

Thank you,

**Ted Fates Esq.**

Partner

Allen Matkins Leck Gamble Mallory & Natsis LLP

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(619) 233-1158 (fax)

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**From:** Gary Aguirre [<mailto:gary@aguirrelawapc.com>]

**Sent:** Tuesday, March 1, 2016 1:17 PM

**To:** Fates, Ted <[tfates@allenmatkins.com](mailto:tfates@allenmatkins.com)>

**Cc:** Thomas C. Hebrank ([thebrank@ethreadvisors.com](mailto:thebrank@ethreadvisors.com)) <[thebrank@ethreadvisors.com](mailto:thebrank@ethreadvisors.com)>

**Subject:** SEC v. Schooler

Mr. Fates:

You have insisted that the Receiver's *ex parte* motion be heard on the merits. Would you agree to a March 13 filing date for our opposition papers?

A simple yes or no will suffice.

Sincerely,

Gary J. Aguirre

Aguirre Law, APC

501 W. Broadway, Suite 800

San Diego, CA 92101

Tel: 619-400-4960

Fax: 619-501-7072

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(default.aspx)

1 PAY ONLINE WWW.SDTREASTAX.COM

2 PAY BY PHONE (855) 829-3773

3 QUESTIONS (877) 829-4732

4 TAX BILL YEAR

2015/2016

ORIGINAL YEAR OF DEFAULT - JULY 1, 2012 THRU JUNE 30, 2013

FAQ

5 PROPERTY DESCRIPTION

PROPERTY ADDRESS CANNOT BE SHOWN IN COMPLIANCE TO GOVERNMENT CODE SECTION 6254.21.

CURRENT OWNER LYONS VALLEY PARTNERS AND JAMUL MEADOWS PARTNERS AND HIDDEN HILLS PARTNERS

6 TAX DEFAULT DATE

6/30/2013

7 PARCEL NO.

519-150-05-00

8 ORIGINAL PARCEL

NO. 519-150-05-00

IF PROPERTY OWNERSHIP HAS BEEN CHANGED, PLEASE CONTACT

THE SAN DIEGO COUNTY ASSESSOR'S OFFICE AT (619) 531-5848

9 DEFAULTED PARCEL NO.	10 DEFAULTED AMOUNT	11 ADDITIONAL PENALTIES	12 DEFAULT CREDIT	13 SUSPENSE	14 TOTAL DUE	15 IF PAID BY
519-150-05-00	\$9,902.82	\$2,925.24	\$0.00	\$0.00	\$12,861.06	3/31/2016

16 THE TAXES ON THIS PROPERTY ARE DEFAULTED FOR THE YEARS SHOWN BELOW

YEAR(S)	*CODE	TAX BILL NUMBER	**DEFAULTED AMOUNT
THIS BOX INTENTIONALLY LEFT BLANK			

17 REFER TO THE MONTH OF PAYMENT FOR THE TOTAL AMOUNT DUE

MONTH	YEAR	AMOUNT DUE
JUL	2015	\$11,782.98
AUG	2015	\$11,917.74
SEP	2015	\$12,052.50
OCT	2015	\$12,187.26
NOV	2015	\$12,322.02
DEC	2015	\$12,456.78
JAN	2016	\$12,591.54
FEB	2016	\$12,726.30
MAR	2016	\$12,861.06
APR	2016	\$12,995.82
MAY	2016	\$13,130.58
JUN	2016	\$13,265.34
MONTHLY PENALTY AND INTEREST		\$134.76

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CURRENT YEAR TAXES ARE NOT INCLUDED IN THE ABOVE AMOUNTS

\*\*\*AMOUNT DUE

Sum of prior year taxes, delinquency penalties, cost, redemption penalties, and redemption fees

Defaulted

Parcel Number	Status	Payment Type	Amount	Action
519-150-05-00	DUE	Balance	\$12,861.06	<a href="#">Add to Cart</a>

[View Back of Bill](#)[Search Results](#)

The defaulted property tax payment stub is not available online. You can submit a payment without a stub. Please include your 10 digit parcel number in the memo portion of your check. You can mail a payment to:

San Diego County Treasurer-Tax Collector  
1600 Pacific Highway, Room 162  
San Diego, CA 92101

DAN McALLISTER | County of San Diego Treasurer-Tax Collector

San Diego County Administration Center | 1600 Pacific Highway - Room 162 | San Diego, CA 92101

Questions: 877.829.4732 | Pay by Phone: 855.829.3773



(default.aspx)

FAQ

1 PAY ONLINE WWW.SDTREASTAX.COM

2 PAY BY PHONE (855) 829-3773

3 QUESTIONS (877) 829-4732

4 TAX BILL YEAR

2015/2016

ORIGINAL YEAR OF DEFAULT - JULY 1, 2012 THRU JUNE 30, 2013

5 PROPERTY DESCRIPTION

PROPERTY ADDRESS CANNOT BE SHOWN IN COMPLIANCE TO GOVERNMENT CODE SECTION 6254.21.

CURRENT OWNER LYONS VALLEY PARTNERS AND JAMUL MEADOWS PARTNERS AND HIDDEN HILLS PARTNERS

6 TAX DEFAULT DATE

6/30/2013

7 PARCEL NO.

519-221-01-00

8 ORIGINAL PARCEL

NO. 519-221-01-00

IF PROPERTY OWNERSHIP HAS BEEN CHANGED, PLEASE CONTACT

THE SAN DIEGO COUNTY ASSESSOR'S OFFICE AT (619) 531-5848

9 DEFAULTED PARCEL NO.	10 DEFAULTED AMOUNT	11 ADDITIONAL PENALTIES	12 DEFAULT CREDIT	13 SUSPENSE	14 TOTAL DUE	15 IF PAID BY
519-221-01-00	\$32,709.64	\$9,553.62	\$0.00	\$11,449.22	\$30,847.04	3/31/2016

16 THE TAXES ON THIS PROPERTY ARE DEFAULTED FOR THE YEARS SHOWN BELOW

YEAR(S)	*CODE	TAX BILL NUMBER	**DEFAULTED AMOUNT
THIS BOX INTENTIONALLY LEFT BLANK			

17 REFER TO THE MONTH OF PAYMENT FOR THE TOTAL AMOUNT DUE

MONTH	YEAR	AMOUNT DUE
JUL	2015	\$38,731.30
AUG	2015	\$39,176.92
SEP	2015	\$39,622.54
OCT	2015	\$40,068.16
NOV	2015	\$40,513.78
DEC	2015	\$40,959.40
JAN	2016	\$41,405.02
FEB	2016	\$41,850.64
MAR	2016	\$42,296.26
APR	2016	\$42,741.88
MAY	2016	\$43,187.50
JUN	2016	\$43,633.12
MONTHLY PENALTY AND INTEREST		\$445.62

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CURRENT YEAR TAXES ARE NOT INCLUDED IN THE ABOVE AMOUNTS

\*\*\*AMOUNT DUE

Sum of prior year taxes, delinquency penalties, cost, redemption penalties, and redemption fees

Defaulted

Parcel Number	Status	Payment Type	Amount	Action
519-221-01-00	DUE	Balance	\$30,847.04	<a href="#">Add to Cart</a>

[View Back of Bill](#)[Search Results](#)

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Questions: 877.829.4732 | Pay by Phone: 855.829.3773



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1 **PAY ONLINE** [WWW.SDTREASTAX.COM](http://WWW.SDTREASTAX.COM)2 **PAY BY PHONE** (855) 829-37733 **QUESTIONS** (877) 829-47324 **TAX BILL YEAR****2015-2016**

FOR FISCAL YEAR BEGINNING JULY 1, 2015 AND ENDING JUNE 30, 2016

[FAQ](#)5 **PROPERTY ADDRESS - DESCRIPTION - SUBDIVISION**

PROPERTY ADDRESS CANNOT BE SHOWN IN COMPLIANCE TO GOVERNMENT CODE SECTION 6254.21.

CURRENT OWNER LYONS VALLEY PARTNERS AND JAMUL MEADOWS  
PARTNERS AND HIDDEN

SPECIAL MESSAGES

OWNER MESSAGES

6 **MAP NO.**8 **DOCUMENT NO.**

334730

9 **DOCUMENT DATE**

4/21/2005

7 **DESCRIPTIONS****VALUES & EXEMPTIONS**

LAND	\$201,100
IMPROVEMENTS	\$0
TOTAL L&I	\$201,100
PERSONAL PROPERTY	\$0
EXEMPTIONS	
HOMEOWNERS	\$0
OTHER	\$0
NET TAXABLE VALUE	\$201,100

10 **OWNER OF RECORD ON JANUARY 1, 2015**LYONS VALLEY PARTNERS AND JAMUL MEADOWS  
PARTNERS AND HIDDEN

11 PARCEL/BILL NO.	12 TAX RATE AREA	13 CORTAC NO.	14 1ST INSTALLMENT	15 2ND INSTALLMENT	16 TOTAL DUE
519-150-05-00	79013		\$2,353.80	+	\$2,139.82 = \$4,493.62

17 **YOUR TAX DISTRIBUTION**

AGENCY	RATE	AMOUNT
1% TAX ON NET VALUE	1.00000	2010.99
<b>VOTER APPROVED BONDS:</b>		
GROSSMONT HEALTHCARE DISTRICT BOND PROP G 6-06-06	NET 0.02352	\$47.30
GEN BOND JAMUL-DULZURA-PROP Y 11/04/1975, 1976C	NET 0.00432	\$8.69
GEN BOND JAMUL-DULZURA-PROP B 3/07/1995, SER 1995A	NET 0.03226	\$64.87
GEN BOND JAMUL-DULZURA-PROP B 3/07/1995, SER 1998A	NET 0.00769	\$15.46
GEN BOND JAMUL-DULZURA-PROP B 3/07/1995, SER 2004A	NET 0.02705	\$54.40
HI BOND GROSSMONT-PROP H 3/02/2004, SERIES 2004	NET 0.00000	\$0.00
HI BOND GROSSMONT-PROP H 3/02/2004, SERIES 2006	NET 0.01143	\$22.99
HI BOND GROSSMONT-PROP H 3/02/2004, SERIES 2008	NET 0.00952	\$19.14
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2009A	NET 0.00606	\$12.19
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2010B	NET 0.00908	\$18.26
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2011C	NET 0.00177	\$3.56
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2011D	NET 0.00341	\$6.86
HI BOND GROSSMONT-PROP H 3/02/2004, 2011A REF	NET 0.00098	\$1.97
HI BOND GROSSMONT-PROP H 3/02/2004, 2011B REF	NET 0.00567	\$11.40
HI BOND GROSSMONT-PROP H 3/02/2004, 2012 REF	NET 0.00503	\$10.12

18 **YOUR TAX DISTRIBUTION**

AGENCY	RATE	AMOUNT
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2013E	NET 0.00544	\$10.94
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2015F	NET 0.00214	\$4.30
GROSSMONT-CUYAMACA COMM COLL, 11/05/02 SER 2005B	NET 0.00577	\$11.60
GROSSMONT-CUYAMACA COMM COLL, 11/05/02, SER 2008C	NET 0.00000	\$0.00
GROSSMONT-CUYAMACA COMM COLL, 11/05/02, 2008 REF	NET 0.02448	\$49.23
GROSSMONT-CUYAMACA COMM COLL, 11/06/12, 2013A	NET 0.01514	\$30.45
GROSSMONT-CUYAMACA COMM COLL, 11/05/02, 2013 REF	NET 0.00000	\$0.00
MWD D/S REMAINDER OF SDCWA 15019999	NET 0.00350	\$7.04
<b>TOTAL ON NET VALUE</b>	<b>1.20426</b>	<b>\$2,421.76</b>
<b>FIXED CHARGED ASSMTS:</b>		
VECTOR DISEASE CTRL	800-273-5167	\$0.40
WATER AVAILABILITY	619-670-2712	\$990.30
MWD WTR STANDBY CHRNG	866-807-6864	\$462.80
MOSQUITO SURVEILLANCE	800-273-5167	\$2.28
CWA WTR AVAILABILITY	858-522-6900	\$402.10
<b>TOTAL AMOUNT</b>		<b>\$4,493.62</b>

## Secured

Parcel Number	Installment	Installment Amount	Delinquent After	Status	Amount Due	Total Due	Action
519-150-05-00	1st	\$2,139.82	12/10/2015	DUE	\$2,353.80	\$4,493.62	<a href="#">Add 1st to cart</a>
	2nd	\$2,139.82	4/11/2016	DUE	\$2,139.82		<a href="#">Add Both to Cart</a>

[View Back of Bill](#)[Search Results](#)

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Questions: 877.829.4732 | Pay by Phone: 855.829.3773





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2 **PAY BY PHONE** (855) 829-3773

3 **QUESTIONS** (877) 829-4732

4 **TAX BILL YEAR**

**2015-2016**

FOR FISCAL YEAR BEGINNING JULY 1, 2015 AND ENDING JUNE 30, 2016

FAQ

5 **PROPERTY ADDRESS - DESCRIPTION - SUBDIVISION**

PROPERTY ADDRESS CANNOT BE SHOWN IN COMPLIANCE TO GOVERNMENT CODE SECTION 6254.21.

**CURRENT OWNER** LYONS VALLEY PARTNERS AND JAMUL MEADOWS PARTNERS AND HIDDEN

**SPECIAL MESSAGES**

**OWNER MESSAGES**

6 <b>MAP NO.</b>	7 <b>DESCRIPTIONS</b>	<b>VALUES &amp; EXEMPTIONS</b>
	LAND	\$412,400
	IMPROVEMENTS	\$0
	TOTAL L&I	\$412,400
	PERSONAL PROPERTY	\$0
	EXEMPTIONS	
	HOMEOWNERS	\$0
	OTHER	\$0
	<b>NET TAXABLE VALUE</b>	<b>\$412,400</b>

10 <b>OWNER OF RECORD ON JANUARY 1, 2015</b>	
	LYONS VALLEY PARTNERS AND JAMUL MEADOWS PARTNERS AND HIDDEN

11 <b>PARCEL/BILL NO.</b>	12 <b>TAX RATE AREA</b>	13 <b>CORTAC NO.</b>	14 <b>1ST INSTALLMENT</b>	15 <b>2ND INSTALLMENT</b>	16 <b>TOTAL DUE</b>
519-221-01-00	79013		\$5,069.91	+	\$4,609.01 = \$9,678.92

17 **YOUR TAX DISTRIBUTION**

AGENCY	RATE	AMOUNT
1% TAX ON NET VALUE	1.00000	4123.99
<b>VOTER APPROVED BONDS:</b>		
GROSSMONT HEALTHCARE DISTRICT BOND PROP G 6-06-06	NET 0.02352	\$97.00
GEN BOND JAMUL-DULZURA-PROP Y 11/04/1975, 1976C	NET 0.00432	\$17.82
GEN BOND JAMUL-DULZURA-PROP B 3/07/1995, SER 1995A	NET 0.03226	\$133.04
GEN BOND JAMUL-DULZURA-PROP B 3/07/1995, SER 1998A	NET 0.00769	\$31.71
GEN BOND JAMUL-DULZURA-PROP B 3/07/1995, SER 2004A	NET 0.02705	\$111.55
HI BOND GROSSMONT-PROP H 3/02/2004, SERIES 2004	NET 0.00000	\$0.00
HI BOND GROSSMONT-PROP H 3/02/2004, SERIES 2006	NET 0.01143	\$47.14
HI BOND GROSSMONT-PROP H 3/02/2004, SERIES 2008	NET 0.00952	\$39.26
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2009A	NET 0.00606	\$24.99
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2010B	NET 0.00908	\$37.45
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2011C	NET 0.00177	\$7.30
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2011D	NET 0.00341	\$14.06
HI BOND GROSSMONT-PROP H 3/02/2004, 2011A REF	NET 0.00098	\$4.04
HI BOND GROSSMONT-PROP H 3/02/2004, 2011B REF	NET 0.00567	\$23.38
HI BOND GROSSMONT-PROP H 3/02/2004, 2012 REF	NET 0.00503	\$20.74

18 **YOUR TAX DISTRIBUTION**

AGENCY	RATE	AMOUNT
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2013E	NET 0.00544	\$22.43
HI BOND GROSSMONT-PROP U 11/04/2008, SERIES 2015F	NET 0.00214	\$8.83
GROSSMONT-CUYAMACA COMM COLL, 11/05/02 SER 2005B	NET 0.00577	\$23.80
GROSSMONT-CUYAMACA COMM COLL, 11/05/02, SER 2008C	NET 0.00000	\$0.00
GROSSMONT-CUYAMACA COMM COLL, 11/05/02, 2008 REF	NET 0.02448	\$100.96
GROSSMONT-CUYAMACA COMM COLL, 11/06/12, 2013A	NET 0.01514	\$62.44
GROSSMONT-CUYAMACA COMM COLL, 11/05/02, 2013 REF	NET 0.00000	\$0.00
MWD D/S REMAINDER OF SDCWA 15019999	NET 0.00350	\$14.43
<b>TOTAL ON NET VALUE</b>	<b>1.20426</b>	<b>\$4,966.36</b>
<b>FIXED CHARGED ASSMTS:</b>		
MWD WTR STANDBY CHRG	866-807-6864	\$949.34
WATER AVAILABILITY	619-670-2712	\$2,474.40
MOSQUITO SURVEILLANC	800-273-5167	\$2.28
CWA WTR AVAILABILITY	858-522-6900	\$824.80
VECTOR DISEASE CTRL	800-273-5167	\$0.84
<b>TOTAL AMOUNT</b>		<b>\$9,678.92</b>

## Secured

Parcel Number	Installment	Installment Amount	Delinquent After	Status	Amount Due	Total Due	Action
519-221-01-00	1st	\$4,609.01	12/10/2015	DUE	\$5,069.91	\$9,678.92	<a href="#">Add 1st to cart</a>
	2nd	\$4,609.01	4/11/2016	DUE	\$4,609.01		<a href="#">Add Both to Cart</a>

[View Back of Bill](#)[Search Results](#)

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San Diego, CA 92101

DAN McALLISTER | County of San Diego Treasurer-Tax Collector

San Diego County Administration Center | 1600 Pacific Highway - Room 162 | San Diego, CA 92101

Questions: 877.829.4732 | Pay by Phone: 855.829.3773

# Exhibit 4

**Gary Aguirre**

---

**From:** Fates, Ted [tfates@allenmatkins.com]  
**Sent:** Tuesday, March 01, 2016 5:02 PM  
**To:** Gary Aguirre  
**Cc:** Thomas Hebrank  
**Subject:** FW: Case # 3:12-cv-02164-GPC-JMA

Mr. Aguirre,

Per your request, below is the email the Receiver received from the San Diego County Fire Authority on September 17, 2015.

Regards, Ted

---

**From:** Self, Jorge [mailto:Jorge.Self@sdcounty.ca.gov]  
**Sent:** Thursday, September 17, 2015 9:27 AM  
**To:** Thomas Hebrank <thebrank@ethreadvisors.com>  
**Cc:** tfates@allenmatkins.com  
**Subject:** Case # 3:12-cv-02164-GPC-JMA

Good morning Mr. Hebrank,

My name is Jorge Self and I am a Code Enforcement Officer with the San Diego County Fire Authority. I have been tasked with abating a vacant property in Jamul Ca. (APN: 519-221-01-00) for violations of the San Diego County Defensible Space Ordinance (SDCCRO 68.404). After doing some research, I discovered that the listed owners of the property, "Lyons Valley Partners", "Jamul Meadows Partners", and "Hidden Hills Partners" are under investigation for SEC violations, with Thomas C. Hebrank being Court appointed as the Temporary Receiver.

Can you please call or e-mail me at your earliest convenience to discuss how we can mitigate these fire hazards in the quickest and most efficient way possible for both of us.

Best regards,

Jorge Self  
Code Enforcement Officer  
San Diego County Fire Authority  
**Tel: 858-974-5919/ Fax: 858-467-9662/ MS O-302**  
jorge.self@sdcounty.ca.gov



*Improving Fire and Emergency Medical  
Services in Unincorporated San Diego County*

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# Exhibit 5

# ROBERT BACKER & ASSOCIATES

Robert M. Backer, MAI, SRA  
Certified General Appraiser  
AG 002082

*appraisal of real estate*

## **ROBERT M. BACKER, MAI, SRA QUALIFICATIONS OF APPRAISER**

### **EDUCATION**

- Bachelors Degree, University of North Carolina, Chapel Hill, 1972
- Practicing Law Institute seminars on Public and Private Real Estate Limited Partnerships and Evaluating Tax Shelter Offerings
- Crittenden seminar on Mobile Home Park Development and Finance
- Various Real Estate Courses including:
  - Real Estate Appraisal                      Real Estate Finance
  - Real Estate Practice                      Real Estate Law
  - Real Estate Principles                      Real Estate Economics
- Principles of Appraisal (AIREA) - April 1987
- Basic Valuation Procedures (AIREA) - October 1987
- Standards of Professional Practice (AIREA) - June 1988
- Capitalization Theory and Techniques (Part A) (AIREA) - 8/89
- Capitalization Theory and Techniques (Part B) (AIREA) - 9/89
- Case Studies in Real Estate Valuation (AIREA) - June 1990
- Report Writing and Valuation Analysis (AIREA) - August 1990
- Litigation Valuation (AI) - June 1991
- Uniform Residential Appraisal Report (SREA Seminar)
- Appraisal of Partial Acquisitions (IRWA)
- Engineering Plan Development and Application (IRWA)
- Uniform Commercial & Industrial Report (AIREA/SREA Seminar)
- Environmental Hazards (SREA Seminar)
- Subdivision Map Act Update (UCSD Extension Seminar)
- Fundamentals of Construction (UCSD Extension)
- Understanding Limited Appraisals - General (AI Seminar) - July 1994
- The Appraiser's Complete Review (AI Seminar) - July 1994
- California's Appraiser Licensing Law and FIRREA (AI Seminar) - September 1995
- The Appraiser in Cyberspace (AI Seminar) - December 1995
- Environmental Issues - Past, Present & Future (AI Seminar) - March 1996
- Affordable Housing (AI Seminar) - April 1996
- Interpreting Development Plans and Blueprints (AI Seminar) - May 1996
- Property Profile of Operating Expenses (AI Seminar) - June 1996
- Changing Markets and New Research Methods (AI Seminar) - July 1996
- Attorneys, Appraisers and Real Estate - (AI Seminar) - September 1996
- Market Analysis from the Buyer's Viewpoint (AI Seminar) - October 1996
- Applying Economic Forecasts (AI Seminar) - February 1997
- Eminent Domain Case Update (IRWA) Seminar) - March 1997
- Mitigation Land Update and Valuation - (AI Seminar) - April 1997
- Tax Assessment - (AI Seminar) - July 1997
- Easement Valuation (AI Seminar) - November 1997
- Appraisal of Partial Interests - (AI Seminar) - June 1998
- Valuation of detrimental Conditions - (AI Seminar) - September 1998
- Valuation of Contaminated Properties - (IRWA Seminar) - November 1999
- Standards of Professional Practice - Part C - (AI) - November 1999
- Appraisal of Non-conforming Uses - (AI Seminar) - January 2001
- Applying Economic Forecasts - (AI Seminar) - February 2001

- Real Estate Disclosure - (AI Seminar) - January 2002
- Partial Interest Valuation - Divided - (AI Seminar) - March 2002
- Emerging Demands in R & D and Office - (AI Seminar) - May 2002
- Statistical Analysis Using the Database Parts 1 & 2 - (AI Seminar) July 2002
- International Valuation Standard - (AI Seminar) - July 2002
- Valuation of Unique Properties - (AI Seminar) - March 2004
- USPAP Update 2003 - (AI Seminar) - December 2003
- Unleash the MLS - (AI Seminar) - April 2004
- Advanced Appraisal Refresher - (AI Seminar) - June 2004
- Deal and Development Analysis of Downtown San Diego - (AI Seminar) September 2005
- Subdivision Valuation (AI Seminar) - April 2006
- Residential Market Value and Highest and Best Use - (AI Course Instructor) June 2007
- South Bay Development - Past, Present and Future - (AI Seminar) September 2007
- USPAP Update 2007 - (AI Seminar) September 2007
- Uniform Appraisal Standards for Federal Land Acquisition - (AI Seminar) - May 2008
- 2008 San Diego Apartment and Housing Seminar - (AI Seminar) May 2008
- Unique Assignments in Real Estate Appraisal – (AI Seminar) October 2010
- 2011 San Diego Housing Seminar (AI Seminar) September 2011
- 7-Hour National USPAP Update Course (AI Course) December 2011
- 2012 San Diego Economic Forecast - (AI Seminar) February 2012
- 2013 San Diego Economic Forecast - (AI Seminar) February 2013
- 4-Hour Federal & California Statutory & Regulatory Laws (AI Seminar) March 2013
- Online Appraisal Curriculum Overview - General (AI Course) November 2013
- Online Appraisal Curriculum Overview - Residential (AI Course) December 2013
- Appraising Cell Towers (AI Seminar) December 2013
- 7-Hour National USPAP Update Course (AI Course) December 2013
- Online Business Practices and Ethics (AI Course) April 2014
- Mid-Year San Diego Market Recap and Outlook (AI Seminar) May 2014
- Digging into Ground Leases (AI Seminar) February 2015
- San Diego Real Estate Market Symposium (AI Seminar) May 2015

### **LICENSES**

Certified General Real Estate Appraiser - State of California  
Appraiser Number AG002082 - Expires December 29, 2017

### **TEACHING**

Instructor - Real Estate 110 - Principles of Real Estate Appraisal I - Mesa College (1990-2004)  
Instructor - Real Estate 140 - Principles of Real Estate Appraisal II - Mesa College (1991-2004)  
Instructor - Basic Appraisal Principles - Appraisal Institute  
Instructor - Residential Highest and Best Use and Market Analysis- Appraisal Institute  
Instructor - Basic Appraisal Procedures - Appraisal Institute  
Instructor - Basic Income Capitalization, Part 1 – Appraisal Institute

### **PREVIOUS EXPERIENCE**

February 88 - August 1992  
Roberts and Roberts Appraisal  
Associate

Associate appraiser with concentration on residential, office, commercial, apartment, industrial and subdivision properties for the purpose of loan underwriting, estate tax and public acquisition purposes. Special emphasis on eminent domain, easement valuation, computer modeling and cash flow analysis. Qualified as expert witness, San Diego County Superior Court and U.S. Bankruptcy Court.



July 86 to January 88

Robert Backer & Associates

Independent fee appraiser specializing in single family homes, condos and small income properties. Clients include: Coldwell Banker Mortgage, Rainier Mortgage, All Coast Financial, Loan America, Glendale Federal, Ameristar Financial, several attorneys and the U.S. Attorney Office. During this period completed over 700 appraisal assignments including, single family homes, lots, small income properties, condominiums and PUDs.

March 86 to June 86

Brumley & Associates

Staff Appraiser

Staff appraiser specializing in single family homes, and condo-PUD units for conventional lenders. Performed appraisals for Coldwell Banker Mortgage, Rainier Mortgage, Mesa Mortgage and P.R. Mortgage.

During the period from 1981-1986, I was an acquisitions officer for two large Real Estate syndication firms. During that time period, I was responsible for the acquisition of over 45 Million Dollars of income property. These properties were located all across the U.S. in major population centers as well as smaller towns. Each acquisition required extensive evaluation of the locality as well as a valuation of the proposed acquisition from a cost, income, and sales comparison approach.

#### AFFILIATIONS

Appraisal Institute

International Right-of-Way Association

## REPRESENTATIVE CLIENT LIST

### Attorneys

Seltzer, Caplan, McMahon, Vitek	
Solomon, Ward, Seidenwurm & Smith	
Barker, Olmstead & Barnier	
Pyle, Sims, Duncan, & Stevenson	
Freeland, McKinley & McKinley	
Law Office of Don Detisch	
Musick, Peeler & Garrett	
McDougal & Associates	
Gatzke, Dillon & Ballance	
Law Offices of Peter J. Mueller	
Endeman, Lincoln, Turek & Heater	
Stephenson, Worley, Garratt, Schwartz, Garfield & Prairie	
Luce Forward	
Best, Best & Krieger	
DLA Piper	
Kolodny & Pressman	Duane Horning
Sheppard, Mullin, Richter & Hampton	Epsten and Grinnell & Howell
Gordon & Rees	Higgs Fletcher & Mack
Sullivan Hill	Klinedinst PC
White & Bright	McKenna, Long & Aldridge
Mike Poynor	Law Office of F. Shaun Burns
Manatt, Phelps & Phillips	Law Offices of Linda Bartz
The Law Offices of Robert Miller	John Freni, Esq.

### Financial Institutions

Imperial Bank	Sanwa Bank
First Interstate Bank	Coldwell Banker Mortgage
Carteret Savings Bank	American Financial Services
Merrill Lynch Credit Corporation	

### Other

Wildlife Conservation Board (State of California)	Encina Wastewater Authority
U.S. Fish and Wildlife	Home Depot
City of Vista	County of San Diego
City of National City	City of San Diego
City of Santee	William E. Simon & Sons, LLC
City of San Marcos	U.S. Post Office
Imperial Irrigation District	City of Hope
UCSD Office of Planned Giving	Pardee Construction Company
San Diego Housing Commission	Westbrook Communities
Point Loma Nazarene College	Poway Unified School District
The McMillin Company	City of Encinitas
City of Lemon Grove	City of Calexico
San Diego Community College District	Helix Water District
City of Imperial Beach	San Diego Unified School District
Grossmont Union High School District	City of Oceanside