

1 Timothy P. Dillon, Esq. (SBN 190839)  
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2 5872 Owens Avenue, Suite 200  
Carlsbad, California 92008  
3 Telephone: (858) 587-1800  
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5  
6 Attorneys for ALEX HAUA, et al.

7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 SECURITIES AND EXCHANGE  
11 COMMISSION,

12 Plaintiff,

13 v.

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

17 Defendants.  
18

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

**EX PARTE APPLICATION FOR AN ORDER  
EXTENDING TIME TO FILE AN OPPOSITION  
TO THE RECEIVER'S APRIL 29, 2016  
MOTION FOR ORDER AUTHORIZING SALE  
OF GENERAL PARTNERSHIP ASSETS [DOC.  
1181] BY A PERIOD OF 30 DAYS**

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CASE No. 3:12-cv-02164

EX PARTE APPLICATION FOR AN ORDER EXTENDING TIME TO FILE AN OPPOSITION TO THE RECEIVER'S  
APRIL 29, 2016 MOTION FOR ORDER AUTHORIZING SALE OF GENERAL PARTNERSHIP ASSETS [DOC. 1181]  
BY A PERIOD OF 30 DAYS

1 The Investor Group,<sup>1</sup> by way of this instant ex parte application, is requesting a 30 day extension  
 2 of time to oppose the Receiver's motion requesting this Court's authority to conduct what the Receiver  
 3 characterizes as an "orderly sale" of general partnership properties (Doc. No. 1181). The opposition is  
 4 currently scheduled for April 8, 2016 and the Investor Group requests a 30 day continuance so that it may  
 5 have sufficient time to obtain crucial information from its retained experts.

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10 <sup>1</sup> The Investor Group is comprised of over 100 individuals and entities who have invested in the various general partnerships  
 11 that are subject to the receivership. The Investor Group includes: Randall R. Alessi SEP IRA, Cheri A. Alguire, Cheri A.  
 12 Alguire IRA, Jodi Pickering, Dana Anenberg, Linda Armas IRA, Emily J. Averill, Kent & Susan Averill, jointly, Kevin B.  
 13 Bacon & Karin Bacon Co-Trustees of The Bacon Family Trust, Kathleen A. Becker Revocable Trust, Frank A. Bendrick,  
 14 Patricia A. Bendrick, Simon Bibeau SEP IRA, Ed & Irene Brabant, Edward H. Brabant SEP IRA, Thomas & Susan Brown  
 15 2001 Trust, Thomas & Susan Brown, Trustees, William & Linda Bruno, Patricia C. Buza IRA, Anita L. Byrum, Marc Camras  
 16 Roth IRA, Camras Family Trust, Patricia Carras, Patricia Carras Trust, Robert J. Chastanet IRA, Robert J. & Rachel I.  
 17 Chastanet, Takayuki & Tomoko Chubachi, Takayuki & Tomoko Chubachi Revocable Trust dated Feb. 26, 2008, Cynthia  
 18 Clarke, IRA, Douglas Clarke, Anthony M. Colangelo, Kimberly A. Croke, Brad & Carolyn Curtis, The Curtis Family Trust,  
 19 Brad & Carolyn Curtis, Trustees, Brad Curtis IRA, Brad Curtis, Christopher J. and Eileen L. Davis, Matthew DeLine 401k  
 20 Plan, Matthew DeLine IRA, Matthew DeLine, DeLine Family Trust, William J. Deline IRA, David DeMarais, Mary Doan,  
 21 Cynthia Dorney, Cynthia Dorney Roth IRA, Cynthia Dorney Trustee of the Ahumada Family Trust Dated 10/23/2000, Richard  
 22 & Cynthia Dorney, Richard Dorney IRA, Roger & Susan Engle, Roger Engle, Letitia Fleming, Steven Goldman, Green Family  
 23 Trust, Shawn T. Green, Timothy & Bessie Green, Michael Greenberg, Terry Hagen, Jensen Family Trust dated April 23,  
 24 1997, Credit Shelter Trust under the Jensen Family Trust, Traci Jensen Hagerman Beneficiary IRA of Deceased Gregory  
 25 Bullin-Jensen IRA, Susan E. Harrington, Mikale Associates, Inc., Alejandro & Terri Haua, Reyna M. Haua, James R.  
 26 Hettinger, Spirit At Work, Inc., Ho Trust Dated 10/10/2007, Tjung-Ling Ho, Roselynn Ho Trustees, Richard Howe, John  
 27 Huang, Priscilla Huang, Angelique Judd, Christopher & Angelique Judd, Della June, Ronald Karp, Roth IRA, Ruey Ken,  
 28 Punita Khanna IRA, Cheryl Layman, Taekyun Lee & Melina Stafford, Taekyun Lee, Gene Lin, Gene Lin & Ruey Ken, Kevin  
 T. & Karon C. Lingle, Karon C. Lingle IRA, Anita C. Lorr, IRA, Eric & Anita Lorr, Eric Lorr, IRA, Paul David & Nicole  
 Kathleen Losey, Charles J. Lozinger, Charles J. Lozinger & Tike K. Lozinger, Chris & Sue Lupo, Trustees, Chris & Sue Lupo,  
 Jamie Lupo (Sison), Chris Lupo, Sue Lupo, Bruce K. Marquez, Bruce K. Marquez & Rose Marquez, Tom W. & Rosita B.  
 McGowan, Elbert McLaren, IRA, Luzviminda T. McLaren, IRA, Elbert A. McLaren & Luzviminda T. McLaren, Trustees of  
 McLaren Family Trust dated 4/8/2008, Chris A. Mekata, Stephen A. Mitchell, Stephen N. Morrill & Maria T. Morrill, Stephen  
 N. Morrill, Kathleen E. Nagy, Michael G. Nichols, Salvador L. Paleo, Rosa I Paleo, Salvador L. Paleo & Rosa I Paleo,  
 Trustees of the Paleo Family Trust Dated 11/20/2001, Martel Pellerin, David R. Powell, JoAnne Powell, Gary A. Powell,  
 Gary A. Powell & Tonya J. Powell, Tonya J. Powell, Georjean Radford, Elizabeth L. Ray, Reed Family Trust, Robert E. &  
 Elaine H. Richardson, Daniel Richter, Daniel Richter, IRA, Ken Robinson, Evelyn A. Roquemore, General Partner of the  
 Evelyn A. Roquemore Limited Partnership, Joseph J. Rousseau, Richard & Jane Sanders, Jane Sanders IRA, Louis Serianni,  
 Steven R. Shuey & Kristine J. Shuey, Trustees of Shuey Family Trust dated Jan. 12, 2008, Dana P. Smith, Scott Snyder &  
 Mary Weickgeuant, Scott Snyder, IRA, Marc Sorgatz, Cathy C. Spatuzzi, Cathy C. Spatuzzi & Michael A. Spatuzzi, Trustees  
 of Spatuzzi Family Trust, Roland & Anne Staeb, Roland Staeb IRA, Anne L. Staeb IRA, The Staeb Family Trust dated  
 10/7/1999, Roland & Anne Staeb Trustees, Roland Staeb Roth IRA, Nelson Stephens, Gerald Stranak, IRA, Sylvester Family  
 Living Trust, Richard & Sharon Sylvester Trustees, Natalie Sylvester Pestrex, Anthony Sylvester, Richard Sylvester Roth  
 IRA, Sharon Sylvester Roth IRA, Michael Taetzsch, Patrick Teel, Cynthia A. Teply IRA, John & Cynthia A. Teply, Joe  
 Toledo, Kenny & Leslie Tung, Jenny Wang, Rachel Warren IRA, Alan & Gail Whetsine, Daryl & Debra White, Richard  
 Wodiske DDS Inc. Defined Contribution Plan, Richard Wodiske Trustee, Wodiske Family Trust, Richard & Laurie Wodiske  
 Trustees.

**I.****GOOD CAUSE EXISTS FOR THE CONTINUANCE**

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2  
3 Good cause exists for the instant ex parte request because the Investor Group requires additional  
4 time to obtain results from their retained experts regarding the marketing and positioning of the general  
5 partnership properties.

6 Alan Nevin and Neal Singer at Xpera Group (“Xpera”) have been retained as experts in the instant  
7 matter. Alan Nevin has more than 25 years of experience in performing feasibility studies for developers  
8 and investors, as well as forensic experts. Neal Singer is the COO of Xpera RE, Xpera’s full-service  
9 commercial real estate repositioning division. Xpera is a comprehensive group of construction  
10 consultants, real estate advisors and forensic experts. The Investor Group is retaining Xpera to perform  
11 feasibility studies and market analyses on the each of the partnership properties.

12 Xpera is taking an initial retainer of \$20,000 for the purpose of providing a plan, recommendation  
13 and proposal for each of the 23 general partnership properties. Xpera’s report will go beyond a mere  
14 appraisal of the partnership properties and will provide a thorough program for optimizing property value  
15 and income potential. Xpera will conduct site visits, analyze past and current entitlements for the  
16 properties, will assess whether the procurement of future entitlements would reasonably be expected to  
17 increase the value of properties, communicate with applicable government agencies, brokers and others  
18 regarding past, existing, and possible future entitlements and evaluate the properties and the market  
19 surrounding the properties.

20 Entitlements are the various approvals allowing a specific development or use of real property.  
21 Entitlements are legal agreements with governing municipalities which allow certain building types and  
22 uses to occur on a site. An “entitlement” adds a great amount of value to a vacant lot as it provides a pre-  
23 approval (an approval which can be difficult or daunting for a prospective buyer to obtain) from the  
24 relevant governing bodies to develop a piece of property in a particular way. The “repositioning” of  
25 certain of these properties would involve the procurement of entitlements and/or the marketing of already  
26 existing entitlements to maximize the values of the properties.

27 Xpera will issue a report recommending the best way each property can be positioned to maximize  
28 investor return. Xpera will provide a presentation of all data obtained and research conducted, will

1 provide an analysis of each properties' local market, will provide analysis on the quality of each  
2 properties' location in terms of future development on resale, will provide a report on the status of  
3 development processing and opportunities for future mapping, will provide an estimated time for future  
4 processing of entitlements (if processing is deemed possible) and will report on potentials for optimizing  
5 value of the properties. In addition to this information, Xpera's report will include information regarding  
6 the range in value of each of the properties if they were properly marketed with entitlements which may  
7 be reasonably expected to be obtained, the potential costs of obtaining entitlements, the likelihood of  
8 obtaining additional entitlements on certain properties and possible sources for the funding of the  
9 entitlements.

10 It is anticipated Xpera will not recommend the sale of many of the general partnership properties,  
11 but rather, would recommend a "repositioning" of the real estate (i.e. by the obtaining of entitlements,  
12 zoning variances, marketing of entitlements already obtained, etc.) and a change in the way the assets are  
13 marketed and valued.

14 The Receiver's wholesale plan to dispose of the entirety of the remaining general partnership  
15 properties without having conducted an analysis as to whether the immediate sale of all properties is in  
16 actuality the best method by which the investors may obtain a return on their investments is in error.  
17 Indeed, the Receivers' reliance on outdated appraisals obtained in 2013 and 2015 is an approach that  
18 ignores the increase in value of real property over the recent months and the inherent value certain  
19 properties have as a result of their entitlements and/or ability to obtain valuable future entitlements.  
20 While simply disposing of substantially all the assets and distributing all the proceeds is a seemingly  
21 simple way to close out the general partnerships – this one size fits all approach lacks the nuance required  
22 to maximize investor returns.

23 Further, the fact that the Receiver appears to be moving from his position of preserving assets of  
24 the general partnerships to one of liquidation marks a significant turn of events in the ultimate ability of  
25 the Investor Group to receive a return on their investment. The Investor Group questions whether the  
26 real property assets, including those properties at issue in the Receiver's current motion, have even been  
27 valued at an appropriate fair market value.

28



**CERTIFICATE OF SERVICE**

I am employed in the County of San Diego, State of California, am over the age of 18 and not a party to the within action. My business address is DILLON GERARDI HERSHBERGER MILLER & AHUJA, LLP, 5872 Owens Avenue, Suite 200, Carlsbad, CA 92008. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing.

On March 22, 2016, I caused to be served the following documents described as:

- **EX PARTE APPLICATION FOR AN ORDER EXTENDING TIME TO FILE AN OPPOSITION TO THE RECEIVER'S APRIL 29, 2015 MOTION FOR ORDER AUTHORIZING SALE OF GENERAL PARTNERSHIP ASSETS [DOC. 1181] BY A PERIOD OF 30 DAYS]**

**(BY ELECTRONIC FILING)** I am familiar with the United States District Court, Southern District of California's practice for collecting and processing electronic filings. Under that practice, documents are electronically filed with the Court. The Court's CM/ECF system will generate a Notice of Electronic Filing (NEF) to the filing party, the assigned judge, and any registered users in the case. The NEF will constitute service of the document. Registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. Under said practice, the following CM/ECF user(s) were served:

**Gary J Aguirre**  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com), [maria@aguirrelawapc.com](mailto:maria@aguirrelawapc.com)

**Lynn M. Dean**  
[deanl@sec.gov](mailto:deanl@sec.gov), [larofiling@sec.gov](mailto:larofiling@sec.gov), [berryj@sec.gov](mailto:berryj@sec.gov), [irwinma@sec.gov](mailto:irwinma@sec.gov), [cavallones@sec.gov](mailto:cavallones@sec.gov)

**Philip H Dyson**  
[phildysonlaw@gmail.com](mailto:phildysonlaw@gmail.com), [jldossegger2@yahoo.com](mailto:jldossegger2@yahoo.com), [phdtravel@yahoo.com](mailto:phdtravel@yahoo.com)

**Edward G Fates**  
[tfates@allenmatkins.com](mailto:tfates@allenmatkins.com), [bcrfilings@allenmatkins.com](mailto:bcrfilings@allenmatkins.com), [jholman@allenmatkins.com](mailto:jholman@allenmatkins.com)

**Susan Graham**  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Eric Hougen**  
[eric@hougenlaw.com](mailto:eric@hougenlaw.com)

**Sara D. Kalin**  
[kalins@sec.gov](mailto:kalins@sec.gov), [irwinma@sec.gov](mailto:irwinma@sec.gov)

Dated: March 22, 2016

*s/ Darlene Chaves*  
\_\_\_\_\_  
Darlene Chaves

1 Timothy P. Dillon, Esq. (SBN 190839)  
2 **DILLON GERARDI HERSHBERGER MILLER & AHUJA, LLP**  
3 5872 Owens Avenue, Suite 200  
4 Carlsbad, California 92008  
5 Telephone: (858) 587-1800  
6 Facsimile: (858) 587-2587  
7 E-Mail: [tdillon@dghmalaw.com](mailto:tdillon@dghmalaw.com)

8 Attorneys for ALEX HAUA, et al.

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  
16 FINANCIAL PLANNING CORPORATION  
17 d/b/a WESTERN FINANCIAL PLANNING  
18 CORPORATION,

19 Defendants.

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

**DECLARATION OF TIMOTHY P. DILLON  
IN SUPPORT OF EX PARTE APPLICATION  
FOR AN ORDER EXTENDING TIME TO  
FILE AN OPPOSITION TO THE  
RECEIVER'S APRIL 29, 2016 MOTION FOR  
ORDER AUTHORIZING SALE OF GENERAL  
PARTNERSHIP ASSETS [DOC. 1181] BY A  
PERIOD OF 30 DAYS**

1 I, Timothy P. Dillon, declare as follows:

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

4 2. I am the attorney for over 100 investors (the "Investor Group")<sup>1</sup>.

5 3. Good cause exists for the instant ex parte request because the Investor Group requires  
6 additional time to obtain results from their retained experts regarding the marketing and positioning of  
7 the general partnership properties.

8  
9  
10 \_\_\_\_\_  
11 <sup>1</sup> The Investor Group is comprised of over 100 individuals and entities who have invested in the various general partnerships  
12 that are subject to the receivership. The Investor Group includes: Randall R. Alessi SEP IRA, Cheri A. Alguire, Cheri A.  
13 Alguire IRA, Jodi Pickering, Dana Anenberg, Linda Armas IRA, Emily J. Averill, Kent & Susan Averill, jointly, Kevin B.  
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21 Plan, Matthew DeLine IRA, Matthew DeLine, DeLine Family Trust, William J. Deline IRA, David DeMarais, Mary Doan,  
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Punita Khanna IRA, Cheryl Layman, Taekyun Lee & Melina Stafford, Taekyun Lee, Gene Lin, Gene Lin & Ruey Ken, Kevin  
T. & Karon C. Lingle, Karon C. Lingle IRA, Anita C. Lorr, IRA, Eric & Anita Lorr, Eric Lorr, IRA, Paul David & Nicole  
Kathleen Losey, Charles J. Lozinger, Charles J. Lozinger & Tike K. Lozinger, Chris & Sue Lupo, Trustees, Chris & Sue Lupo,  
Jamie Lupo (Sison), Chris Lupo, Sue Lupo, Bruce K. Marquez, Bruce K. Marquez & Rose Marquez, Tom W. & Rosita B.  
McGowan, Elbert McLaren, IRA, Luzviminda T. McLaren, IRA, Elbert A. McLaren & Luzviminda T. McLaren, Trustees of  
McLaren Family Trust dated 4/8/2008, Chris A. Mekata, Stephen A. Mitchell, Stephen N. Morrill & Maria T. Morrill, Stephen  
N. Morrill, Kathleen E. Nagy, Michael G. Nichols, Salvador L. Paleo, Rosa I Paleo, Salvador L. Paleo & Rosa I Paleo,  
Trustees of the Paleo Family Trust Dated 11/20/2001, Martel Pellerin, David R. Powell, JoAnne Powell, Gary A. Powell,  
Gary A. Powell & Tonya J. Powell, Tonya J. Powell, Georjean Radford, Elizabeth L. Ray, Reed Family Trust, Robert E. &  
Elaine H. Richardson, Daniel Richter, Daniel Richter, IRA, Ken Robinson, Evelyn A. Roquemore, General Partner of the  
Evelyn A. Roquemore Limited Partnership, Joseph J. Rousseau, Richard & Jane Sanders, Jane Sanders IRA, Louis Serianni,  
Steven R. Shuey & Kristine J. Shuey, Trustees of Shuey Family Trust dated Jan. 12, 2008, Dana P. Smith, Scott Snyder &  
Mary Weickgeuant, Scott Snyder, IRA, Marc Sorgatz, Cathy C. Spatuzzi, Cathy C. Spatuzzi & Michael A. Spatuzzi, Trustees  
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10/7/1999, Roland & Anne Staeb Trustees, Roland Staeb Roth IRA, Nelson Stephens, Gerald Stranak, IRA, Sylvester Family  
Living Trust, Richard & Sharon Sylvester Trustees, Natalie Sylvester Pestrex, Anthony Sylvester, Richard Sylvester Roth  
IRA, Sharon Sylvester Roth IRA, Michael Taetzsch, Patrick Teel, Cynthia A. Teply IRA, John & Cynthia A. Teply, Joe  
Toledo, Kenny & Leslie Tung, Jenny Wang, Rachel Warren IRA, Alan & Gail Whetsine, Daryl & Debra White, Richard  
Wodiske DDS Inc. Defined Contribution Plan, Richard Wodiske Trustee, Wodiske Family Trust, Richard & Laurie Wodiske  
Trustees.



1 4. The law firm for the Investor Group has retained Alan Nevin and Neal Singer at Xpera  
2 Group (“Xpera”). Alan Nevin has more than 25 years of experience in performing feasibility studies for  
3 developers and investors, as well as forensic experts. Neal Singer is the COO of Xpera RE, Xpera’s full-  
4 service commercial real estate repositioning division. Xpera is a comprehensive group of construction  
5 consultants, real estate advisors and forensic experts. Counsel for the Investor Group has retained Xpera  
6 to perform studies and market analyses on the each of the partnership properties with the intent of  
7 maximizing value to the investors.

8 5. A substantial retainer is being paid to Xpera for the purpose of providing a plan, including  
9 proposing recommendations for each of the 23 general partnership properties. Xpera’s report is intended  
10 to go beyond a mere appraisal of the partnership properties. Instead, it will provide a strategy and plan  
11 for optimizing property value and income potential. Xpera will conduct site visits, analyze past and  
12 current entitlements for the properties, will assess whether the procurement of future entitlements would  
13 reasonably be expected to increase the value of properties, communicate with applicable government  
14 agencies, brokers and others regarding past, existing, and possible future entitlements and evaluate the  
15 properties and the market surrounding the properties.

16 6. Xpera will issue a report recommending the best way each property can be positioned to  
17 maximize investor return. Xpera will provide a presentation of all data obtained and research conducted,  
18 will provide an analysis of each properties’ local market, will provide analysis on the quality of each  
19 properties’ location in terms of future development on resale, will provide a report on the status of  
20 development processing and opportunities for future mapping, will provide an estimated time for future  
21 processing (if processing is deemed possible) and will report on potentials for optimizing value of the  
22 properties.

23 7. It is anticipated that Xpera will not recommend the immediate sale of many of the general  
24 partnership properties, but rather, would recommend a “repositioning” of the real estate (i.e. by the  
25 obtaining of entitlements, zoning variances, marketing of entitlements already obtained, etc.) and a  
26 change in the way the assets are marketed and valued.

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1           8.       On or about March 20, 2016, I requested Receiver's counsel agree to a 30 day extension  
2 of time to allow for the completion of the op. My request was denied. Attached hereto as **Exhibit "A"**,  
3 is a true and correct copy of the March 20-21, 2016 email chain between myself and receiver's counsel.

4           9.       My office will provide notice of this ex parte by serving a copy of the ex parte paperwork  
5 via email on all counsels of record in this matter.

6  
7 Dated: March 22, 2016

Respectfully submitted,  
DILLON GERARDI HERSHBERGER MILLER  
& AHUJA, LLP

8  
9  
10 s/ Timothy P. Dillon  
Attorney for ALEX HAUA, et al.

**CERTIFICATE OF SERVICE**

I am employed in the County of San Diego, State of California, am over the age of 18 and not a party to the within action. My business address is DILLON GERARDI HERSHBERGER MILLER & AHUJA, LLP, 5872 Owens Avenue, Suite 200, Carlsbad, CA 92008. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing.

On March 22, 2016, I caused to be served the following documents described as:

- **DECLARATION OF TIMOTHY P. DILLON IN SUPPORT OF EX PARTE APPLICATION FOR AN ORDER EXTENDING TIME TO FILE AN OPPOSITION TO THE RECEIVER'S APRIL 29, 2016 MOTION FOR ORDER AUTHORIZING SALE OF GENERAL PARTNERSHIP ASSETS [DOC. 1181] BY A PERIOD OF 30 DAYS**

**(BY ELECTRONIC FILING)** I am familiar with the United States District Court, Southern District of California's practice for collecting and processing electronic filings. Under that practice, documents are electronically filed with the Court. The Court's CM/ECF system will generate a Notice of Electronic Filing (NEF) to the filing party, the assigned judge, and any registered users in the case. The NEF will constitute service of the document. Registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. Under said practice, the following CM/ECF user(s) were served:

**Gary J Aguirre**  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com), [maria@aguirrelawapc.com](mailto:maria@aguirrelawapc.com)

**Lynn M. Dean**  
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**Philip H Dyson**  
[phildysonlaw@gmail.com](mailto:phildysonlaw@gmail.com), [jldossegger2@yahoo.com](mailto:jldossegger2@yahoo.com), [phdtravel@yahoo.com](mailto:phdtravel@yahoo.com)

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**Susan Graham**  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Eric Hougen**  
[eric@hougenlaw.com](mailto:eric@hougenlaw.com)

**Sara D. Kalin**  
[kalins@sec.gov](mailto:kalins@sec.gov), [irwinma@sec.gov](mailto:irwinma@sec.gov)

Dated: March 22, 2016

s/ Darlene Chaves  
Darlene Chaves

**EXHIBIT “A”**

---

**From:** Fates, Ted [mailto:tfates@allenmatkins.com]  
**Sent:** Tuesday, March 22, 2016 12:33 PM  
**To:** Tim Dillon <tdillon@dghmalaw.com>  
**Cc:** Sunjina Ahuja <sahuja@dghmalaw.com>; Thomas C. Hebrank <thebrank@ethreadvisors.com>; Berry, John W. <BerryJ@sec.gov>; DeanL@sec.gov; KALINS@SEC.GOV  
**Subject:** RE: Continuation of April 29, 2016 hearing

Dear Mr. Dillon,

You raise the possibility that expert opinions you plan to obtain in the next 30 days may recommend entitlements be obtained before GP properties are sold. Any such opinions could be presented and considered, along with the likely costs and benefits of obtaining applicable entitlements, in connection with broker/listing recommendations after the Receiver's motion is heard. The possibility that one or more GP properties might yield a greater net recovery if entitlement work is done is not something that bears on *whether* GP properties should be sold, but rather *when* they should be sold and if some work should be done first. Accordingly, the possibility that experts recommend obtaining entitlements prior to sale is not cause to delay the April 29 hearing date – the costs and benefits of entitlement work can be considered and addressed after the motion is heard. The Court-approved orderly sale process has a number of steps, including recommendations for broker listings and noticed sale motions, so investors will have multiple opportunities to weigh in, including to request that entitlement work be done prior to properties being sold.

I am out of the office this week for vacation, but would be happy to discuss this further upon my

return next week.

Regards,

Ted Fates

---

**From:** Tim Dillon [<mailto:tdillon@dghmalaw.com>]  
**Sent:** Monday, March 21, 2016 11:08 AM  
**To:** Fates, Ted  
**Cc:** Sunjina Ahuja; Thomas C. Hebrank; Berry, John W.; [DeanL@sec.gov](mailto:DeanL@sec.gov); [KALINS@SEC.GOV](mailto:KALINS@SEC.GOV)  
**Subject:** Re: Continuation of April 29, 2016 hearing

Mr. Fates:

I am out of my office this morning. I believe you misunderstand the point. An immediate sale of these properties may not be the best way to return value to the investors. Some of these properties have entitlements or could obtain entitlements that would greatly enhance their value. We are unaware that the receiver has undertaken any similar efforts to position the properties for a maximum return to the investors.

We believe the modest 30 day extension is warranted in light of the value that would be realized in having an outside opinion that ultimately leads to an increased return for these 3300 investors.

Sent from my iPhone

On Mar 21, 2016, at 10:20 AM, Fates, Ted <[tfates@allenmatkins.com](mailto:tfates@allenmatkins.com)> wrote:

Dear Mr. Dillon,

Before addressing your request, it is necessary to clarify one point. The Court has already directed the Receiver to move GP properties that fail to raise sufficient funds through the capital call process to the orderly sale process. See Dkt. No. 1069. The pending motion (Dkt. No. 1181) simply requests that the remaining GP properties, i.e. those with GPs that have sufficient funds on hand to pay their operating expenses through 2016 and therefore did not have a capital call, also be moved to the orderly sale process.

For the reasons discussed in the motion, delaying the process of marketing and selling these GP properties would harm the approximately 3,300 investors and reduce their ultimate recovery. Accordingly, there needs to be good cause for delaying the April 29 hearing for 30 days. The basis for your request appears to be retaining experts to examine the values of the GP properties. Such expert opinions would bear only on the prices at which GP properties should be listed for sale and perhaps how they should be marketed. The motion, on the other hand, simply proposes that GP properties be moved to orderly sale process. The first step of the orderly sale process is for the

Receiver to recommend brokers to list and market the GP properties for sale, but this would not occur until after the Court has granted the motion. Therefore, your timetable for obtaining expert opinions – one month from tomorrow or April 21 – means you will have those opinions before the Receiver would be in a position to recommend brokers and will be able to present them to the Receiver and/or the Court in connection with such broker recommendations.

Accordingly, there does not appear to be cause to delay the April 29 hearing date. However, if we have misunderstood your request or you believe there is other good cause for the proposed delay, please let us know.

Regards,

**Ted Fates Esq.**

Partner

Allen Matkins Leck Gamble Mallory & Natsis LLP

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[<image002.jpg>](#)

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**From:** Tim Dillon [<mailto:tdillon@dghmalaw.com>]

**Sent:** Sunday, March 20, 2016 9:13 AM

**To:** Fates, Ted

**Cc:** Sunjina Ahuja

**Subject:** Continuation of April 29, 2016 hearing

Mr. Fates:

I represent a group of 87+ investors in the general partnerships which hold the majority ownership in and to the 23 properties at issue in the SEC v. Schooler matter. We understand your office represents the receiver, Mr. Hebrank and have reviewed the motion filed by your office (Docket 1181) to conduct a sale of substantially all of the partnership properties. I included you on an email earlier this morning with the SEC and hope that you and Mr. Hebrank can attend a meeting with my office and Gary Aguirre to discuss that motion as well and other matters related to the best interests of the investors.

The purpose of my email is to seek a voluntary 30 day extension for the hearing currently scheduled for April 29<sup>th</sup>. We have been aware of this matter for less than a month. In that time, we have reached out to numerous investors to coordinate their retention. The group of investors we represent is anticipated to grow to more than 100 over the next few days. Recently, we have spent time reviewing the very thick file on this matter – currently with over 1,200 docket entries and approximately 100

orders issued from the court. This process is taking a significant amount of time.

Our opposition to the receiver's plan would be due on or before April 8<sup>th</sup>. We simply do not have enough time to adequately oppose that motion in the best interests of the investors who seek return on their investments. We are in the process of retaining experts to review these properties and the receiver's current plan in order to provide a plan for the properties that will maximize investor returns. We expect to retain them tomorrow and they estimate that the time it will take to review each property, conduct a site inspection (where appropriate) and review related records will take no less than one month to prepare initial findings. These findings would be of significant value to the investors, the Court and to Mr. Hebrank (who is purportedly acting on the investors' behalf).

To avoid the necessity of asking the Court for additional time, we would request that we jointly stipulate to a one month extension to the current April 29<sup>th</sup> hearing date to allow us time to complete this work. In light of the current time limitations, we would appreciate hearing back from you on this matter by 4 PM tomorrow, March 21<sup>st</sup>. Thank you in advance for your anticipated cooperation.

Yours Very Truly,

Timothy P. Dillon  
Dillon Gerardi Hershberger Miller & Ahuja, LLP  
5872 Owens Avenue, Suite 200  
Carlsbad, California 92008  
Tel (858) 587-1800  
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<image003.jpg>

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