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8 Attorney for Investors Susan Graham *et al.*

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

11  
12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 v.

16 LOUIS V. SCHOOLER and FIRST  
17 FINANCIAL PLANNING  
18 CORPORATION d/b/a WESTERN  
19 FINANCIAL PLANNING  
20 CORPORATION,

21 Defendants.

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

**INVESTORS' *EX PARTE***  
**APPLICATION AND**  
**DECLARATION OF GARY J.**  
**AGUIRRE WITHDRAWING**  
**ERRONEOUS STATEMENT OF**  
**FACT IN INVESTORS'**  
**OPPOSITION TO 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**

Date: May 6, 2016

Time: 1:30 p.m.

Ctrm: 2D

Judge: Hon. Gonzalo P. Curiel

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1 I, Gary J. Aguirre, of San Diego, California, declare:

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 approximately 191 investors (“Investors”) in the  
5 general partnerships that are the subject of the receivership.

6 3. As a California attorney, I understand I have a duty to correct a misstatement  
7 of fact to the Court. Cal. Rule Prof. Conduct 5-200; ABA Model Rule 3.3(a); *Thomas v.*  
8 *Girardi*, 611 F.3d 1027, 1035 (9th Cir. Cal. 2010).

9 4. In this regard, I believe the table at page 17 of the Investors’ Opposition  
10 (Dkt. No. 1235) contains a misstatement of fact, which the Court could consider material,  
11 and I am therefore requesting the Court to disregard it. In particular, the representations  
12 on the table at page 17 that Las Vegas 1 had a value ranging between \$12,807,943 and  
13 \$20,958,453 and LV Kade had a value ranging between \$14,897,520 and \$23,587,740 is  
14 incorrect and we request it be disregarded.

15 5. The actual current valuations, according to Investors’ experts (Alan Nevin  
16 and Neal Singer) are between \$7,423,931 and \$9,764,410 for Las Vegas 1 and between  
17 \$8,690,220 and \$11,173,140 for LV Kade. See Exhibit 1 to the Declaration of Alan  
18 Nevin, Dkt. No. 1237-1, Ex. 1, p. 39.

19 6. By way of explanation, I did not receive the 165 pages of reports from our  
20 experts until Thursday evening and Friday morning, the day before our Opposition was  
21 due. On Thursday, April 14, Tim Dillon, counsel for another group of investors, informed  
22 me that he was going to focus on those reports.

23 7. Shortly before I filed my brief, I decided to include a table Mr. Dillon had  
24 used in his brief (Dkt. No. 1234), but I overlooked footnote 4, in which Mr. Dillon  
25 explained the table contained valuations for the Las Vegas properties in five to ten years.

26 8. I did not detect the error until this afternoon, Friday, April 22, 2016, when I  
27 reviewed a communication from a client relating to this subject.

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1           9.     For this reason, I am requesting that the Court disregard the statements  
2 contained in the table at page 17 of Investors' Opposition (DKt. No. 1235).

3           Executed this 22<sup>nd</sup> day of April 2016, at San Diego, California.

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

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          /s/ Gary J. Aguirre            
GARY J. AGUIRRE

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