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THOMAS C. HEBRANK

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

14 SECURITIES AND EXCHANGE  
COMMISSION,

15 Plaintiff,

16 v.

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

20 Defendants.

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

**RECEIVER'S REPLY TO  
AGUIRRE INVESTORS'  
OPPOSITION TO MOTION FOR  
APPROVAL OF SALE OF JAMUL  
VALLEY PROPERTY**

Date: July 15, 2016  
Time: 1:30 p.m.  
Ctrm.: 2D  
Judge: Hon. Gonzalo P. Curiel

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1 Thomas C. Hebrank ("Receiver"), the Court-appointed receiver for First  
2 Financial Planning Corporation d/b/a Western Financial Planning Corporation  
3 ("Western"), its subsidiaries and the General Partnerships listed in Schedule 1 to the  
4 Preliminary Injunction Order entered on March 13, 2013 (collectively,  
5 "Receivership Entities"), hereby replies to the Aguirre Investors' opposition  
6 ("Opposition") to the Motion for Approval of Sale of Jamul Valley Property ("Sale  
7 Motion").

## 8 I. INTRODUCTION

9 In filing the Opposition, the Aguirre Investors have ignored the Court's orders  
10 in multiple ways. The Court instructed the Aguirre Investors to first seek to  
11 intervene before filing further motions and oppositions in the case. They ignored  
12 that instruction and filed the Opposition without first seeking to intervene. Next, the  
13 Court set a specific briefing schedule for the Sale Motion, which provided that  
14 responses were due on June 17, 2016. The Aguirre Investors ignored that order as  
15 well and filed the Opposition on July 1, 2016. Finally, the Opposition simply  
16 reiterates procedural due process arguments Defendant Louis Schooler and the  
17 Aguirre Investors have already made and the Court has already considered and  
18 rejected. For these reasons, the Opposition should be rejected.

## 19 II. PROCEDURAL BACKGROUND

20 On February 4, 2016, the Receiver filed his Motion for: (a) Authority to  
21 Conduct Orderly Sale of General Partnership Properties; (b) Approval of Plan of  
22 Distributing Receivership Assets; and (c) approval of Procedures for the  
23 Administration of Investor Claims ("Distribution Plan Motion"). Dkt. No. 1181.  
24 On February 26, 2016, the Receiver filed his *Ex Parte* Application for Order  
25 Confirming Sale of Jamul Valley Property ("Jamul Valley *Ex Parte*"). Dkt.  
26 No. 1191.

27 Between late February and early April 2016, the Aguirre Investors filed a  
28 series of motions, *ex parte* applications, and objections to relief requested by the



1 briefing schedules can be ignored without consequence, they become meaningless.  
2 The Aguirre Investors have not even acknowledged their late filing, let alone  
3 provide any basis for excusing it. Again, the Opposition should be stricken.

4 Third, the Opposition simply reasserts the same procedural due process  
5 arguments Schooler and the Aguirre Investors have previously made and the Court  
6 has rejected in prior orders, including in the Distribution Plan Order. Finally, in  
7 opposing the Sale Motion, the Aguirre Investors have contradicted their own expert,  
8 Xpera Group, which has endorsed the proposed sale. For these reasons, the  
9 Opposition should be rejected.

10 **IV. CONCLUSION**

11 For these reasons, the Receiver requests that the Opposition be rejected and  
12 the proposed order granting the Motion be signed and entered.

13  
14 Dated: July 8, 2016

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

15  
16 By:           /s/ Edward Fates          

EDWARD G. FATES  
Attorneys for Receiver  
THOMAS C. HEBRANK

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**PROOF OF SERVICE**

I am employed in the County of San Diego, State of California. I am over the age of eighteen (18) and am not a party to this action. My business address is 501 West Broadway, 15th Floor, San Diego, California 92101-3541.

On July 8, 2016, I served the within document(s) described as:

- **RECEIVER'S REPLY TO AGUIRRE INVESTORS' OPPOSITION TO MOTION FOR APPROVAL OF SALE OF JAMUL VALLEY PROPERTY**

on interested parties in this action by:

**BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):** the foregoing document(s) will be served by the court via NEF and hyperlink to the document. On July 8, 2016, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address indicated below:

- Gary J. Aguirre - gary@aguirrelawapc.com; maria@aguirrelawapc.com
- John Willis Berry - berryj@sec.gov; LAROFiling@sec.gov
- Lynn M. Dean - deanl@sec.gov; larofiling@sec.gov; berryj@sec.gov; irwinma@sec.gov; cavallones@sec.gov
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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on July 8, 2016, at San Diego, California.

Edward G. Fates  
\_\_\_\_\_  
(Type or print name)

/s/ Edward Fates  
\_\_\_\_\_  
(Signature of Declarant)