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8 Attorney for Movants and Intervenors 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

**MOVANTS AND INTERVENORS’
NOTICE OF APPEAL AND
NINTH CIRCUIT RULE 3-2
REPRESENTATION STATEMENT**

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1 Notice is hereby given that Movants and Intervenors in the above case, Susan
2 Graham, Alfred L. Pipkin, Alfred L. Pipkin, IRA, Allert Boersma, Arthur V. and Kristie
3 L. Rocco Living Trust, Arthur V. Rocco, Baldwin Family Survivors' Trust, Barbara
4 Humphreys, IRA, Beverly & Mark Bancroft, Beverly A. Bancroft, IRA, Bruce A. Morey
5 IRA, Bruce A. Morey, Bruce R. Hart IRA for Bruce R. Hart and Dixie L. Hart, Carol D.
6 Summers, Carol Jonson, Catherine E. Wertz IRA, Catherine E. Wertz, Cathy Totman,
7 IRA, Charles Bojarski, Chris Nowacki, IRA, Cindy Dufresne, Craig Lamb, Curt &
8 Janean Johnson Family Trust, Curt & Janean Johnson, jointly, Curt Johnson, Curt
9 Johnson, Roth IRA, Cynthia J. Clarke, D & E Macy Family Revocable Living Trust, D.F.
10 Macy IRA, Daniel Burns, Daniel Knapp, Darla Berkel IRA, Darla Berkel, Daryl Dick,
11 Daryl R. Mabley, David and Sandra Jones Trust, David Fife IRA, David Haack IRA,
12 David Haack, David Karp IRA, David Kirsh, David Kirsh, Roth IRA, David Kirsh,
13 Traditional IRA, Debra Askeland, Deidre Parkinen, Dennis Gilman, Dennis Gilman IRA,
14 Diane Bojarski, Diane Gilman, Donna M. and Richard A. Kopenski Family Trust, Donna
15 M. Kopenski, IRA Roth, Douglas G. Clarke, Douglas Sahlin IRA, Eben B. Rosenberger,
16 Edith Sahlin IRA, Edward Takacs, Ellen O'Brien, Elizabeth Lamb, Elizabeth Q. Mabley,
17 Eric W. Norling, Eric W. Norling, IRA, Gary Hardenburg, Gary Hardenburg, Roth IRA,
18 Gene Fantano, George Klinke, IRA, George Trezek, Gerald Zevin, Gerald Zevin, IRA,
19 Gwen Tuohy, Gwenmarie Hilleary, Henrik Jonson, Henrik Jonson, IRA, IDAC Family
20 Group LLC, Iris Bernstein IRA, James J. Coyne Jr. Trust, Janice Marshall, Janice
21 Marshall, IRA, Jason Bruce, Jeffrey Merder, IRA, Jeffrey J. Walz, Jeffrey Larsen,
22 Jeffrey Merder, Jennifer Berta, Jim Minner, Joan Trezek, John Jenkins, John and Mary
23 Jenkins Trust, John and Mary Jenkins Trustees, John Lukens, John Lukens, IRA, John R.
24 Oberman, Joy A. de Beyer, Roth IRA, Joy A. de Beyer, Traditional IRA, Joy de Beyer,
25 Juanita Bass IRA, Juanita Bass, Judith Glickman Zevin, IRA, Judith Glickman Zevin,
26 Judy Knapp, Karen Coyne, Karen J. Coyne IRA, Karen Wilhoite, Karie J. Wright,
27 Kimberly Dankworth, Kirsh Family Trust UTD, Kristie L. Rocco, Lawrence Berkel,
28 Lawrence Berkel, IRA, Lea Leccese, Leo Dufresne, Leo T. Dufresne Jr. IRA, Linda

1 Baldwin IRA, Linda Clifton, Lisa A. Walz, Lloyd Logan and Ida Logan, jointly, Lloyd
2 Logan, IRA, Lynda Igawa, Marc McBride, Marcia McRae, Marilyn L. Duncan, Mark
3 Clifton, Mary Grant, Mary J. Jenkins, IRA, Mathew Berta, Mealey Family Trust, Michael
4 R. Wertz, Michael R. Wertz, IRA, Mildred Mealey, beneficiary of Duane Mealey IRA,
5 Minner Trust, Monica Takacs, Monique Minner, Neil Ormonde, IRA, Nevada
6 Ormonde, IRA, Paul Leccese, Paul R. Sarraffe, IRA, Perryman Family Trust, Polly Yue,
7 Prentiss Family Trust, Kenneth and Gail Prentiss Trustees, Ralph Brenner, Randall S.
8 Ingermanson IRA, Rebecca Merder, Reeta Mohleji, Regis T. Duncan, IRA, Regis T.
9 Duncan, Renee Norling, Richard A. Kopenski, IRA Roth, Robert Indihar, Robert
10 Churchill Family Trust, Robert Churchill IRA, Robert H. Humphreys, Robert Indihar
11 IRA, Robert S. Weschler, Robert Tuohy, Roderick C. Grant, Roger Hort, Roger
12 Moucheron, Ronald Askeland, Ronald Parkinen, Ronald Scott, Ronald Scott, IRA, Salli
13 Sammut Trust, Salli Sue Sammut Trustee, Salli Sue Sammut, IRA, Shirley Moucheron,
14 Stephen Dankworth, Stephen Hogan, Stephen Yue, Steve P. White, IRA, Steve P. White,
15 SEP IRA, Susan Burns, Tamara and Chris Nowacki, jointly, Tamara Nowacki, IRA, The
16 Knowledge Team Profit Sharing Plan, The Ormonde Family Trust, Thomas H. Panzer,
17 Roth IRA, Thomas Herman Panzer Trust, Thomas H Panzer, Trustee, Trisha Bruce, Val
18 Indihar, W.C. Wilhoite, W.C. Wilhoite, Roth IRA, William C. Phillips, William L.
19 Summers, IRA, William L. Summers, William Loeber, William Nighswonger IRA,
20 William R. Nighswonger, William R. Rattan Rev. Trust, William V. and Carol J.
21 Dascomb Trust, Carmen Slabby, Lawrance Slabby, Virginia Kelly, James S. Dolgas,
22 Penco Engineering, Inc. Profit Sharing Pension Fund, George Jurica, and George Jurica,
23 IRA, hereby appeal to the United States Court of Appeals for the Ninth Circuit from:

- 24 1. Order entered in this action on May 18, 2016, (Dkt. No. 1296) partially denying
25 Movants and Intervenors' Motion to Intervene (Dkt. No. 1229) and vacating,
26 and thereby denying, Movants and Intervenors' *Ex Parte* Motion for Leave to
27 File Opposition to Receiver's Court-Ordered Proposal Regarding General
28

1 Partnerships as Supplemented and Proposed Alternative Plan (Dkt. No. 1293)
2 pursuant to 28 USC § 1291 and 28 USC § 1292;

- 3 2. Order entered in this action on May 25, 2016, (Dkt. No. 1303) denying Movants
4 and Intervenors' Motions for (1) Order Vacating Prior Orders Approving
5 Recommendations of Receiver to Sell General Partnerships' Properties (Dkt.
6 No. 1230), (2) Order Directing the Receiver to Provide an Accounting or in the
7 Alternative for an Audit of the Receivership by an Independent Accountant
8 (Dkt. No. 1258) and (3) Leave to File Single Brief of 20 Pages Instead of Four
9 Briefs of Ten Pages in Reply to the Securities and Exchange Commission's and
10 the Receiver's Oppositions to Movants and Intervenors' Motions for an
11 Accounting and to Vacate Orders Approving Receiver's Recommendation to
12 Sell Realty (Dkt. No. 1300) pursuant to 28 USC § 1291 and 28 USC § 1292;
- 13 3. Order entered in this action on May 25, 2016, (Dkt. No. 1304) granting in part
14 Receiver's Motion for Order (A) Authorizing the Receiver to Conduct an
15 Orderly Sale of General Partnership Properties; (B) Approving the Plan of
16 Distributing Receivership Assets; and (C) Approving Procedures for the
17 Administration of Investor Claims (Dkt. No. 1181) and denying Movants and
18 Intervenors' *Ex Parte* Motion for Order Setting Evidentiary Hearing and
19 Discovery Schedule (Dkt. No. 1297) pursuant to 28 USC § 1291 and 28 USC §
20 1292;
- 21 4. Order entered in this action on May 25, 2016, (Dkt. No. 1305) granting
22 Receiver's Motion to file under Seal (Dkt. No. 1280) and approving and
23 adopting Receiver's Recommendations Regarding (1) Engagement of Real
24 Estate Brokers for Las Vegas 1, Las Vegas 2, and Tecate Properties (Dkt. No.
25 1203), and (2) Letter of Intent to Purchase Dayton IV Property (Dkt. No. 1281)
26 pursuant to 28 USC § 1292.

27 Pursuant to Ninth Circuit Rule 3-2, attached is a Representation Statement that
28 identifies all parties to this case and a second, independent group of Movants Intervenors

1 (those represented by Timothy P. Dillon) to this case, along with the names, addresses,
2 telephone numbers, fax numbers, and email addresses of their respective counsel.

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4 DATED: June 14, 2016

Respectfully submitted,

5 By: /s/ Gary J. Aguirre
6 GARY J. AGUIRRE
7 Attorney for Movants-Intervenors
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1 Telephone: (619) 233-1155
2 Facsimile: (619) 233-1158

3 4. Group of Intervenors is represented by:

4 Timothy P. Dillon, Cal. Bar No. 190839
5 Email: tdillon@dghmalaw.com
6 Dillon Gerardi Hershberger Miller & Ahuja, LLP
7 5872 Owens Avenue, Suite 200
8 Carlsbad, CA 92008
9 Telephone: (858) 587-1800
10 Facsimile: (858) 587-2587
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16 LOUIS V. SCHOOLER and FIRST
17 FINANCIAL PLANNING
18 CORPORATION d/b/a WESTERN
19 FINANCIAL PLANNING
20 CORPORATION,

21 Defendants.

PROOF OF SERVICE

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1 I am employed in the County of San Diego, State of California. I am over the age
2 of eighteen (18) and am not a party to this action. My business address is 501 West
3 Broadway, Suite 800, San Diego, California 92101.

4 On June 14, 2016, I served the within document(s) described as:

5 **MOVANTS AND INTERVENORS' NOTICE OF APPEAL AND**
6 **NINTH CIRCUIT RULE 3-2 REPRESENTATION STATEMENT**

7 on all the parties to this action addressed as stated on the attached service list **BY**
8 **ELECTRONIC MAIL AND BY THE COURT'S NOTICE OF ELECTRONIC**
9 **FILING ("NEF")**: the foregoing document(s) will be served by the court via NEF and
10 hyperlink to the document. On June 14, 2016, I checked the CM/ECF docket for this
11 bankruptcy case or adversary proceeding and determined that the following person(s) are
12 on the Electronic Mail Notice List to receive NEF transmission at the email addressed
13 indicated below:

- 14 • Lynn M Dean - deanl@sec.gov;
- 15 • Philip H. Dyson - phildysonlaw@gmail.com;
- 16 • Edward G. Fates - tfates@allenmatkins.com;
- 17 • Eric Hougen - eric@hougenlaw.com;
- 18 • Sara D. Kalin - kalins@sec.gov;
- 19 • John W. Berry - berryj@sec.gov;
- 20 • Tim Dillon - tdillon@dghmalaw.com.

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

23 Executed on June 14, 2016, at San Diego, California.

24 /s/ Gary J. Aguirre
25 GARY J. AGUIRRE

1 Timothy P. Dillon, Esq. (served via CM/ECF and email)
2 Dillon Gerardi Hershberger Miller & Ahuja, LLP
3 5872 Owens Avenue, Suite 200
4 Carlsbad, CA 92008
5 Email: tdillon@dghmalaw.com
6 *Attorney for Independent Group of Movants and Intervenors*

7 Thomas C. Hebrank, CPA, CIRA (served via email only)
8 E3 Advisors
9 501 W. Broadway, Suite 800
10 San Diego, CA 92101
11 Email: thebrank@ethreadvisors.com
12 *Court-Appointed Receiver*
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