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9 Attorneys for Receiver  
THOMAS C. HEBRANK

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

13  
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.  
21

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

**SUPPLEMENTAL BRIEF  
REGARDING SEVENTEENTH  
INTERIM FEE APPLICATION OF  
ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP,  
COUNSEL TO RECEIVER**

Ctrm.: 2D  
Judge: Hon. Gonzalo P. Curiel

1 Pursuant to this Court's Order (1) Granting Receiver's Seventeenth Interim Fee  
2 Application; [ECF No. 1433]; (2) Denying Allen Matkins' Seventeenth Interim Fee  
3 Application; [ECF No. 1434]; (3) Approving Receiver's Seventeenth Status Report  
4 [ECF No. 1422]; and (5) Vacating Hearing Date ("Order") entered on March 14, 2017  
5 (Dkt. No. 1448), Allen Matkins Leck Gamble Mallory & Natsis LLP ("Allen  
6 Matkins"), counsel for Thomas C. Hebrank ("Receiver"), Court-appointed receiver for  
7 First Financial Planning Corporation d/b/a Western Financial Planning Corporation  
8 ("Western"), and its subsidiaries and the General Partnerships listed in Schedule 1 to  
9 the Preliminary Injunction Order entered on March 13, 2013 (collectively,  
10 "Receivership Entities"), hereby submits this supplemental brief in support of its  
11 Seventeenth Interim Fee Application.

12 In its March 14, 2017 order, the Court determined that Allen Matkins'  
13 Seventeenth Interim Fee Application satisfied the factors for the approval of interim  
14 fee applications, with the exception of the "fair value of time, labor, and skill" factor  
15 ("Fair Value Factor"). Dkt. No. 1448, p. 8. With respect to the Fair Value Factor, the  
16 Court noted that the hourly rate of attorney Edward Fates, the lead attorney on the  
17 case, which was previously billed at \$486 per hour, was now billed at \$517.50 per  
18 hour. The Court stated:

19 Without knowing the reason for the rate hike, or how this new rate  
20 compares to rates charged by similar professionals, the Court  
21 cannot conclude that the increased rates represent the fair value of  
the time, labor, and skill provided as measured by conservative  
business standards.

22 Accordingly, the Court directed Allen Matkins to file "supplemental briefing  
23 addressing the increase in its rates and whether such rates continue to be fair and  
24 reasonable in light of prevailing market rates and according to conservative business  
25 standards." *Id.* at p. 11.

26 Early in the receivership (*i.e.*, just over four years ago), Defendant Schooler  
27 and certain investors objected to the First Interim Fee Applications of the Receiver  
28 and Allen Matkins on various grounds, including objecting to the hourly rates

1 charged. The Court considered the objections, but found that the hourly rates of the  
 2 Receiver and Allen Matkins satisfied the Fair Value Factor. Dkt. No. 169, p. 9. The  
 3 Court, however, encouraged the Receiver and Allen Matkins to submit evidence  
 4 regarding comparable rates in future fee applications. *Id.* at fn. 4.

5 Accordingly, in its Second Interim Fee Application, Allen Matkins provided a  
 6 table showing the hourly rates of other law firms representing receivers in cases filed  
 7 by the Securities and Exchange Commission in Southern California. Dkt. No. 176,  
 8 p. 8. After considering the information, the Court again held that Allen Matkins'  
 9 hourly rates satisfied the Fair Value Factor. Dkt. No. 190, p. 7. Since that time, the  
 10 Court has continued to find that the firm's hourly rates satisfy the Fair Value Factor  
 11 and has approved all of its interim fee applications.

12 It is customary for law firms to review and adjust their hourly rates on an  
 13 annual basis in light of increases in operating expenses and the additional skill and  
 14 experience of their attorneys. Allen Matkins does so each year, effective July 1. The  
 15 firm apologizes for not notifying the Court in advance of the rate increases. However,  
 16 in addition to continuing to discount its rates by 10%, as it has throughout this  
 17 receivership, the firm has agreed to freeze its rates for the remainder of the  
 18 receivership.

19 With respect to the hourly rates charged in the Seventeenth Interim Fee  
 20 Application, the following updated table reflects the hourly rates of law firms who  
 21 have represented receivers in cases filed by the Securities and Exchange Commission,  
 22 including the docket numbers of their fee applications and orders approving them:

Case	Court and Case No.	Receiver's Counsel	Hourly Rates	Docket Nos.
SEC v. Lambert Van Tuig, et al.	USDC-CD Case No. 06-cv-00172	Sheppard Mullin Richter & Hampton LLP	\$290 - \$520	765/ 774
SEC v. Learn Waterhouse, Inc., et al.	USDC-SD Case No, 04-cv-02037	Ervin Cohen & Jessup LLP	\$235 - \$575	729-3/ 732
SEC v. Christian Stanley, Inc., et al.	USDC-CD Case No. 11-cv-07147	Dentons US LLP	\$211 - \$531	204-2/ 211

1 As this data shows, Allen Matkins' hourly rates, which range from \$256.50 to  
2 \$702.00 per hour, with the vast majority of work being billed at \$517.50 per hour, are  
3 comparable to the court-approved hourly rates for receiver's counsel in similar cases  
4 in Southern California.

5 The Receiver, who has worked on receiverships in Southern California for  
6 approximately 15 years, knows the skill, experience, and hourly rates charged by law  
7 firms in Southern California that represent federal equity receivers and believes Allen  
8 Matkins provides great value to the receivership estate. The firm has extensive  
9 experience in both federal equity receiverships and real estate transactions, which  
10 enables it to perform the legal services required by this receivership very efficiently  
11 and effectively. Declaration of Thomas Hebrank filed herewith, ¶ 2.

12 Accordingly, the Receiver and Allen Matkins respectfully request that the  
13 Court reconsider its March 14, 2017 order in light of the additional information  
14 provided herein and approve Allen Matkins' Seventeenth Interim Fee Application,  
15 including payment on an interim basis of 80% of fees incurred (\$79,460.28) and  
16 100% of costs incurred (\$503.96).

17  
18 Dated: March 20, 2017

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

19  
20 By:           /s/ Edward Fates

EDWARD G. FATES  
Attorneys for Receiver  
THOMAS C. HEBRANK

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19 FINANCIAL PLANNING  
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20 Defendants.

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

**DECLARATION OF THOMAS C.  
HEBRANK IN SUPPORT OF  
SUPPLEMENTAL BRIEF  
REGARDING SEVENTEENTH  
INTERIM FEE APPLICATION OF  
ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP,  
COUNSEL TO RECEIVER**

Ctrm.: 2D  
Judge: Hon. Gonzalo P. Curiel

1 I, Thomas C. Hebrank, declare:

2 1. I am the Court-appointed receiver for First Financial Planning  
3 Corporation d/b/a Western Financial Planning Corporation ("Western"), its  
4 subsidiaries, and the General Partnerships listed on Schedule 1 to the Preliminary  
5 Injunction Order entered on March 13, 2013 (collectively, "Receivership Entities").  
6 I make this declaration in support the Supplemental Brief Regarding Seventeenth  
7 Interim Fee Application of Allen Matkins Leck Gamble Mallory & Natsis LLP,  
8 Counsel to Receiver. I have personal knowledge of the facts stated herein, and if  
9 called upon to do so, I could and would personally and competently testify to them.

10 2. I have worked on receiverships in Southern California for  
11 approximately 15 years. Based on that experience, I know the skill, experience, and  
12 hourly rates charged by law firms in Southern California that represent federal  
13 equity receivers. I believe Allen Matkins provides great value to the receivership  
14 estate. The firm has extensive experience in both federal equity receiverships and  
15 real estate transactions, which enables it to perform the legal services required by  
16 this receivership very efficiently and effectively.

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

19 Executed this 20th day of March 2017, at San Diego, California.

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21 THOMAS C. HEBRANK

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