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8 Attorneys for ALEX HAUA, et al.

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

10 SECURITIES AND EXCHANGE
11 COMMISSION,

12 Plaintiff,

13 v.
14

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

20 Defendants.

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

**INVESTOR GROUP’S NOTICE OF
MOTION TO UNSEAL AND/OR
UNREDACT DKT. NOS. 826/835, 876/925,
988/991, 1028/1040, 1062/1089, 1072/1090,
1020/1088, 1108/1122/1120, 1113/1124,
1132/1136, 1159**

Hearing:

Date: April 29, 2016

Time: 1:30 p.m.

Dept.: 2D

Judge: Hon. Gonzalo P. Curiel

TO ALL PARTIES AND THEIR ATTORNEY(S) OF RECORD:

NOTICE IS HERBY GIVEN that on April 29, 2016, at 1:30 p.m. in Courtroom 2D of the United States District Court, Southern District of California, located at 221 W. Broadway, San Diego, CA 92101, Investor Group¹ will, and hereby does, move this court for an order unsealing and or unredacting the following orders:

Docket No.	Sealed Documents
826/835	Offers to purchase the property held by Silver State Partners
876/925	Recommendations Regarding Letters of Intent to Purchase Six Properties

¹ The Investor Group is comprised of more than 100 individual and entities who have invested in the various general partnerships that are subject to the receivership. The Investor Group includes: Randall R. Alessi SEP IRA, Cheri A. Alguire, Cheri A. Alguire IRA, Jodi Pickering, Dana Anenberg, Linda Armas IRA, Emily J. Averill, Kent & Susan Averill, jointly, Kevin B. Bacon & Karin Bacon Co-Trustees of The Bacon Family Trust, Jeanne Bavaro, Kathleen A. Becker Revocable Trust, Frank A. Bendrick, Patricia A. Bendrick, Simon Bibeau SEP IRA, James C. Boore IRA, Regina S. Boore 401(k), Boore Family Trust, Ed & Irene Brabant, Edward H. Brahant SEP IRA, Gregory & Kathleen Brown, Megan Brown, Megan Brown Trust dated 10/1/1991, Thomas & Susan Brown 2001 Trust, Thomas & Susan Brown, Trustees, William & Linda Bruno, Patricia C. Buza IRA, Anita L. Byrum, Marc Camras Roth IRA, Camras Family Trust, Donna Carlomagno, Paul Carlomagno, Patricia Carras, Patricia Carras Trust, Robert J. Chastanet IRA, Robert J. & Rachel I. Chastanet, Takayuki & Tomoko Chubachi, Takayuki & Tomoko Chubachi Revocable Trust dated Feb. 26, 2008, Cynthia Clarke, IRA, Douglas Clarke, Anthony M. Colangelo, Ken Corlett & Sylvana Corlett JTWRDS, Ken Corlett, Roth IRA, Ken Corlett, SEP IRA, Kimberly A. Croke, Melanie Cullen, Richard Cullen, Christopher J. and Eileen L. Davis, Matthew DeLine 401k Plan, Matthew DeLine IRA, Matthew DeLine, DeLine Family Trust, William J. Deline IRA, David DeMarais, Mary Doan, Leo T. Dufresne Jr., IRA, Leo T. Dufresne Jr., IRA, Leo & Cindy Dufresne, Roger & Susan Engle, Roger Engle, Letitia Fleming, Steven Goldman, Green Family Trust, Shawn T. Green, Timothy & Bessie Green, Michael Greenberg, Jon Gunter, Pattie Gunter, Terry Hagen, Jensen Family Trust dated April 23, 1997, Credit Shelter Trust under the Jensen Family Trust, Traci Jensen Hagerman Beneficiary IRA of Deceased Gregory Bullin-Jensen IRA, Susan E. Harrington, Wendy Hass, IRA, Mikale Associates, Inc., Alejandro & Terri Haua, Reyna M. Haua, James R. Hettinger, Spirit At Work, Inc., Ho Trust Dated 10/10/2007, Tjung-Ling Ho, Roselynn Ho Trustees, Richard Howe, John Huang, Priscilla Huang, Ned Iguchi Trust, Angelique Judd, Christopher & Angelique Judd, Della June, Ronald Karp, Roth IRA, Ruey Ken, 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 A. McLaren & Luzviminda T. McLaren, Trustees of McLaren Family Trust dated 4/8/2008, 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, Noel F. Owen, 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, Roland Ramirez, Elizabeth L. Ray, Reed Family Trust, Robert E. & Elaine H. Richardson, Daniel Richter, Daniel Richter, IRA, Ken Robinson, Joseph J. Rousseau (but name not on purchase contract), Pamela J. Russell, 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, Alan & Gail Whetsine, Richard Wodiske DDS Inc. Defined Contribution Plan, Richard Wodiske Trustee, Wodiske Family Trust, Richard & Laurie Wodiske Trustees (collectively, the "Investor Group").

Docket No.	Sealed Documents
988/991	Recommendations Regarding Letters of Intent to Purchase Jamul Valley Property
1028/1040	Recommendations Regarding Letters of Intent to Purchase Four Properties
1062/1089	Recommendation Regarding Letter of Intent to Purchase Las Vegas 1 Properties
1072/1090	Recommendation Regarding Letter of Intent to Purchase Las Vegas 2 Property
1020/1088 (redacted)	Status information regarding Jamul Properties
1108/1122 1120 (redacted)	Further Recommendation Regarding Letter of Intent to Purchase Las Vegas 2 Property
1113/1124	Recommendation Regarding Letters of Intent to Purchase Fernley I, Washoe IV, and Washoe V Properties
1132/1136	Recommendation Regarding Letter of Intent to Purchase Stead Property
1159	Recommendation Regarding Letter of Intent to Purchase Dayton 1, Dayton IV, Fernley I, Las Vegas 2 and Stead Properties

This Motion is brought on the grounds that good cause exists to unseal the records because the suppression of the documents goes against the strong presumption in favor of the common law right for the public to inspect and copy judicial records. *Valley Broadcasting Co. v. Unities States Dist. Court*, 798 F.2d 1289, 1294 (9th Cir. 1986). Furthermore, the unsealing of the records furthers the purpose and intent of 28 USC §2001. The Motion is based upon this Notice, the accompanying Memorandum of Points and Authorities, all pleadings and papers on file in this action, and upon such other matters as may be presented to the court at the time of the hearing.

Dated: April 1, 2016

Respectfully submitted,
DILLON GERARDI HERSHBERGER
MILLER & AHUJA, LLP

s/ Timothy P. Dillon
Timothy P. Dillon, Esq.
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 April 1, 2016, I caused to be served the following documents described as:

- **INVESTOR GROUP'S NOTICE OF MOTION TO UNSEAL AND/OR UNREDACT DKT. NOS. 826/835, 876/925, 988/991, 1028/1040, 1062/1089, 1072/1090, 1020/1088, 1108/1122/1120, 1113/1124, 1132/1136, 1159**

(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, maria@aguirrelawapc.com

Lynn M. Dean
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Susan Graham
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Eric Hougen
eric@hougenlaw.com

Sara D. Kalin
kalins@sec.gov, irwinma@sec.gov

Dated: April 1, 2016

s/ Ronnielyn Abrera
Ronnielyn Abrera

EXHIBIT “1”

Tim Dillon

From: Fates, Ted <tfates@allenmatkins.com>
Sent: Friday, April 01, 2016 11:09 AM
To: Tim Dillon
Cc: Sunjina Ahuja; Thomas C. Hebrank (thebrank@ethreadvisors.com)
Subject: RE: SEC v. Schooler

Mr. Dillon,

My assistant is out of the office today. We have made it clear we do not object to Mr. Aguirre sharing the documents with you. If there is some reason Mr. Aguirre's office cannot send them to you, please let me know. Otherwise, you can get them from him or my assistant can send them to you on Monday.

Regards,

Ted Fates

From: Tim Dillon [mailto:tdillon@dghmalaw.com]
Sent: Friday, April 1, 2016 11:04 AM
To: Fates, Ted <tfates@allenmatkins.com>
Cc: Sunjina Ahuja <sahuja@dghmalaw.com>; Thomas C. Hebrank (thebrank@ethreadvisors.com) <thebrank@ethreadvisors.com>
Subject: RE: SEC v. Schooler

Mr. Fates:

These documents should come from the receiver, not Mr. Aguirre. Please provide them for my attention. To date, we have not had the opportunity to review any of the sealed orders.

Tim Dillon

From: Fates, Ted [mailto:tfates@allenmatkins.com]
Sent: Thursday, March 31, 2016 2:51 PM
To: Tim Dillon <tdillon@dghmalaw.com>
Cc: Sunjina Ahuja <sahuja@dghmalaw.com>; Thomas C. Hebrank (thebrank@ethreadvisors.com) <thebrank@ethreadvisors.com>
Subject: RE: SEC v. Schooler

Mr. Dillon,

Your understanding is incorrect. The Court made it clear it did not want offers publicly disclosed. I believe this was made clear in statements from the bench during one or more hearings and in conversations with the Court's law clerk. You will note that the Court's order (Dkt. No. 808) instructs the Receiver to notify the court ex parte within one (1) business day of the receipt of any offers to purchase GP properties. It specifically did not say to file such offers with the Court. The Receiver's ex parte requests for permission to file recommendations under seal were made pursuant to the instruction given by the Court.

Regards,

Ted Fates

From: Tim Dillon [<mailto:tdillon@dghmalaw.com>]
Sent: Thursday, March 31, 2016 2:27 PM
To: Fates, Ted <tfates@allenmatkins.com>
Cc: Sunjina Ahuja <sahuja@dghmalaw.com>; Thomas C. Hebrank (thebrank@ethreadvisors.com) <thebrank@ethreadvisors.com>
Subject: RE: SEC v. Schooler

Mr. Fates:

Thank you for your email. Unless and until the Court permits the documents to be unsealed, we will maintain their confidentiality.

It is my understanding the Court didn't sua sponte raise concerns about the disclosure of offers. Rather, the receiver requested that the information be sealed. This appears to run contrary to the requirements of 28 USC §2001. Was the Court made aware of the requirements of Section 2001 when the Receiver asked that these terms be sealed from public view?

Tim Dillon

From: Fates, Ted [<mailto:tfates@allenmatkins.com>]
Sent: Thursday, March 31, 2016 2:19 PM
To: Tim Dillon <tdillon@dghmalaw.com>
Cc: Sunjina Ahuja <sahuja@dghmalaw.com>; Thomas C. Hebrank (thebrank@ethreadvisors.com) <thebrank@ethreadvisors.com>
Subject: RE: SEC v. Schooler

Mr. Dillon,

In light of the Court's directive to file the requested documents under seal and concerns that the information not be publicly disclosed, please confirm that you and your clients agree to keep information contained in under seal filings strictly confidential. Once we have such confirmation from you, we will not object to Mr. Aguirre providing the sealed documents to you.

With respect to your inquiry regarding unsealing documents, the Court has repeatedly made clear its concerns about the public disclosure of offers and letters of intent regarding GP properties (as well as certain Court rulings regarding such offers and letters of intent) and the potential negative effect such disclosure could have on property values/sale prices. The Receiver shares those concerns.

Regards,

Ted Fates Esq.

Partner

Allen Matkins Leck Gamble Mallory & Natsis LLP

501 West Broadway, 15th Floor, San Diego, CA 92101-3541

(619) 233-1155 (main)

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(619) 233-1158 (fax)

Allen Matkins

CHALLENGE. OPPORTUNITY. SUCCESS.

From: Tim Dillon [<mailto:tdillon@dghmalaw.com>]
Sent: Wednesday, March 30, 2016 12:34 PM
To: Fates, Ted <tfates@allenmatkins.com>
Cc: Sunjina Ahuja <sahuja@dghmalaw.com>
Subject: SEC v. Schooler

Mr. Fates:

I understand that your office recently provided Mr. Aguirre's office with a link to the redacted and/or sealed orders related to the receiver. Would you please forward the same documents to our attention? These are important documents relevant to our opposition to the Receiver's current motion.

Also, does the receiver have any objection to unsealing any (or all) of these documents so that they can be referred to in future motions and so the investors (and the public) will be aware of the actions the receiver has taken with respect to the GPs' properties.

Yours Very Truly,

Timothy P. Dillon
Dillon Gerardi Hershberger Miller & Ahuja, LLP
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DILLON
GERARDI
HERSBERGER
MILLER
AHUJA

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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

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

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO UNSEAL AND/OR
UNREDACT DKT. NOS. 826/835, 876/925,
988/991, 1028/1040, 1062/1089, 1072/1090,
1020/1088, 1108/1122/1120, 1113/1124,
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Judge: Hon. Gonzalo P. Curiel

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page

TABLE OF AUTHORITIES.....ii

I. INTRODUCTION.....1

II. SEALED DOCUMENTS AT ISSUE.....2

III. RECEIVER’S RATIONALE FOR SEALING RECORDS.....4

IV. THE PREVIOUSLY SEALED RECORDS SHOULD BE UNSEALED.....7

 A. THE SEALING OF THE DOCUMENTS IS IN
 DIRECT CONTRAVENTION TO THE JURISDICTIONAL
 REQUIREMENTS AND POLICY UNDERPINNINGS
 OF 28 U.S.C. §2001.....9

 B. THE INVESTORS HAVE A COMPELLING
 INTEREST IN VIEWING THE SEALED DOCUMENTS.....11

V. CONCLUSION.....11

TABLE OF AUTHORITIES

Page(s)

CASES

Cumberland Lumber Co. v. Tunis Lumber Co.,
 171 F.352 (1909 4th Cir.) 10

EEOC v. Erection Co.,
 900 F.2d 168 (9th Cir. 1990) 8

Foltz v. State Farm Mut. Auto. Ins. Co.,
 331 F.3d 1122 (9th Cir. 2003) 8

Hagestead v. Tragesser,
 49 F.3d 1430 (9th Cir. 1995) 8

Kamakana v. City and County of Honolulu,
 447 F.3d 1172 (9th Cir. 2006) 8

Nixon v. Warner Commc’ns,
 435 U.S. 589 (1978)..... 5, 7, 8

Oregonian Publ’g Co. v. United States Dist. Court,
 920 F.2d 1462 (9th Cir. 1990) 7

Phoenix Newspapers v. United States Dist. Court,
 156 F.3d 940 (9th Cir. 1998) 7, 8, 9

Read v. Elliott,
 94 F.2d 55 (4th Cir. 1938) 10

Richmond Newspapers,
 448 U.S. 555 (1980)..... 7

San Jose Mercury News, Inc. v. U.S. Dist. Ct.,
 187 F.3d 1096 (9th Cir. 1999) 8

SEC v. Goldfarb,
 2013 U.S. Dist., Lexis 118942 (N.D. Cal. 2013)..... 10

1 *United States v. Edwards*,
2 672 F.2d 1289 (7th Cir. 1982)7

3 *Valley Broadcasting Co. v. United States Dist. Court*,
4 798 F.2d 1289 (9th Cir. 1986)7, 8

5
6 **STATUTES**
7 28 U.S.C. §2001.....9, 10

8
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I.

INTRODUCTION

Since October 2014, the court-appointed receiver, Thomas C. Hebrank (“Receiver”) has sought – and has obtained – court approval to seal a number of offers made with respect to, and recommendations for the 23 real property assets held by the general partnerships (“GPs”) that were organized under First Financial Planning Corporation dba Western Financial Planning Corporation (“Western”). In at least two instances, the court has also redacted portions of its order that relates to the marketing, sale or other distribution of the GPs’ real property assets.

The Investor Group¹ seeks relief from the court to unseal and unredact documents related to nine filings made by the Receiver that directly relate to the marketing, sale or other positioning

¹ The Investor Group is comprised of more than 100 individual and entities who have invested in the various general partnerships that are subject to the receivership. The Investor Group includes: Randall R. Alessi SEP IRA, Cheri A. Alguire, Cheri A. Alguire IRA, Jodi Pickering, Dana Anenberg, Linda Armas IRA, Emily J. Averill, Kent & Susan Averill, jointly, Kevin B. Bacon & Karin Bacon Co-Trustees of The Bacon Family Trust, Jeanne Bavaro, Kathleen A. Becker Revocable Trust, Frank A. Bendrick, Patricia A. Bendrick, Simon Bibeau SEP IRA, James C. Boore IRA, Regina S. Boore 401(k), Boore Family Trust, Ed & Irene Brabant, Edward H. Brahan SEP IRA, Gregory & Kathleen Brown, Megan Brown, Megan Brown Trust dated 10/1/1991, Thomas & Susan Brown 2001 Trust, Thomas & Susan Brown, Trustees, William & Linda Bruno, Patricia C. Buza IRA, Anita L. Byrum, Marc Camras Roth IRA, Camras Family Trust, Donna Carlomagno, Paul Carlomagno, Patricia Carras, Patricia Carras Trust, Robert J. Chastanet IRA, Robert J. & Rachel I. Chastanet, Takayuki & Tomoko Chubachi, Takayuki & Tomoko Chubachi Revocable Trust dated Feb. 26, 2008, Cynthia Clarke, IRA, Douglas Clarke, Anthony M. Colangelo, Ken Corlett & Sylvana Corlett JTWRDS, Ken Corlett, Roth IRA, Ken Corlett, SEP IRA, Kimberly A. Croke, Melanie Cullen, Richard Cullen, Christopher J. and Eileen L. Davis, Matthew DeLine 401k Plan, Matthew DeLine IRA, Matthew DeLine, DeLine Family Trust, William J. Deline IRA, David DeMarais, Mary Doan, Leo T. Dufresne Jr., IRA, Leo T. Dufresne Jr., IRA, Leo & Cindy Dufresne, Roger & Susan Engle, Roger Engle, Letitia Fleming, Steven Goldman, Green Family Trust, Shawn T. Green, Timothy & Bessie Green, Michael Greenberg, Jon Gunter, Pattie Gunter, Terry Hagen, Jensen Family Trust dated April 23, 1997, Credit Shelter Trust under the Jensen Family Trust, Traci Jensen Hagerman Beneficiary IRA of Deceased Gregory Bullin-Jensen IRA, Susan E. Harrington, Wendy Hass, IRA, Mikale Associates, Inc., Alejandro & Terri Haua, Reyna M. Haua, James R. Hettinger, Spirit At Work, Inc., Ho Trust Dated 10/10/2007, Tjung-Ling Ho, Roselynn Ho Trustees, Richard Howe, John Huang, Priscilla Huang, Ned Iguchi Trust, Angelique Judd, Christopher & Angelique Judd, Della June, Ronald Karp, Roth IRA, Ruey Ken, 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 A. McLaren & Luzviminda T. McLaren, Trustees of McLaren Family Trust dated 4/8/2008, 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, Noel F. Owen, 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, Roland Ramirez, Elizabeth L. Ray, Reed Family Trust, Robert E. & Elaine H. Richardson, Daniel Richter, Daniel Richter, IRA, Ken Robinson, Joseph J. Rousseau (but name not on purchase contract), Pamela J. Russell, 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, Alan & Gail Whetsine, Richard Wodiske DDS Inc. Defined

1 of the properties. The Investor Group is mindful of, and does not seek to unseal portions of the
 2 record that relate to the personal finances of Louis Schooler (See e.g. Dkt. Nos. 211, 864, 1002).
 3 Rather, the Investor Group seeks to review and publicly discuss the efforts of the receiver to
 4 perform the duties for which he was appointed.

5 The Investor Group intends to oppose the Receiver’s motion for orderly sale of the
 6 properties currently set for April 29, 2016 (Dkt. 1181). The Investor Group has filed a motion to
 7 extend this hearing date via ex parte application (Dkt. 1211), however, the court has not ruled on
 8 that request as of the filing of this motion. As of this date, the Investor Group has not received
 9 copies of the redacted or sealed documents to evaluate what has (or has not) been done with the
 10 properties. As the Investor Group includes individuals for whom the Receiver was appointed to
 11 protect, it should be axiomatic to allow them to review the work performed.

12 **II.**

13 **SEALED DOCUMENTS AT ISSUE**

14 Between October 2014 and the present, the Receiver has made several requests to seal
 15 offers or recommendations regarding letters of intent to purchase several of the GPs’ real property
 16 assets. In addition, the Receiver has made several other recommendations to the court, which the
 17 court has almost always adopted. These include:

Docket No.	Sealed Documents	Reason for Sealing
826/835 Entirety of Document Is Sealed	Offers to purchase the property held by Silver State Partners	(Dkt. 825) “... It involves information, including the amount of the offer, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property...”
876/925	Recommendations Regarding Letters of Intent to Purchase Six Properties	(Dkt. 875) “... It involves information, including the proposed purchase prices, which if publicly disclosed, could

27 _____
 28 Contribution Plan, Richard Wodiske Trustee, Wodiske Family Trust, Richard & Laurie Wodiske Trustees (collectively, the “Investor Group”).

Docket No.	Sealed Documents	Reason for Sealing
Entirety of Document Is Sealed		negatively affect the amount of other offers and therefore the ultimate price for the properties...”
988/991 Entirety of Document Is Sealed	Recommendations Regarding Letters of Intent to Purchase Jamul Valley Property	(Dkt. 987) “... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property...”
1028/1040 Entirety of Document Is Sealed	Recommendations Regarding Letters of Intent to Purchase Four Properties	(Dkt. 1027) “... It involves information, including the proposed purchase prices, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the properties...”
1062/1089 Entirety of Document Is Sealed	Recommendation Regarding Letter of Intent to Purchase Las Vegas 1 Properties	(Dkt. 1062) “... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property...”
1072/1090 Entirety of Document Is Sealed	Recommendation Regarding Letter of Intent to Purchase Las Vegas 2 Property	(Dkt. 1062) “... It involves information, including the proposed purchase prices, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property...”
1020/1088 (redacted)	Status information regarding Jamul Properties	Dkt. 1088 “This information could hinder the Receiver’s ability to negotiate and sell the property for the GPs”
1108/1122 1120 (redacted)	Further Recommendation Regarding Letter of Intent to Purchase Las Vegas 2 Property	(Dkt. 1107) “... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property...”

Docket No.	Sealed Documents	Reason for Sealing
1113/1124 Entirety of Document Is Sealed	Recommendation Regarding Letters of Intent to Purchase Fernley I, Washoe IV, and Washoe V Properties	(Dkt. 1112) "... It involves information, including the proposed purchase prices, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the properties..."
1132/1136 Entirety of Document Is Sealed	Recommendation Regarding Letter of Intent to Purchase Stead Property	(Dkt. 1131) "... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."
1159 Entirety of Document Is Sealed	Recommendation Regarding Letter of Intent to Purchase Dayton 1, Dayton IV, Fernley I, Las Vegas 2 and Stead Properties	(Dkt. 1158) "... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."

Although the attorney for the Investor Group has sought the unredacted records, they have yet to be produced. Even if produced informally by counsel for the Receiver, they have requested that the sealed files not be shared, limiting how they can be effectively used to maximize the value from the properties.

III.

RECEIVER'S RATIONALE FOR SEALING RECORDS

The Receiver has maintained a consistent mantra for sealing records related to the sale or disposition of the GP assets and his recommendations. In the receiver's first request to seal (Dkt. 825) filed on October 29, 2014, the receiver claimed that sealing the offer price for the Silver State Partners' property would protect against "negatively affect[ing] the amount of other offers."

In granting the Receiver's initial request (Dkt. 835), the court acknowledged that, "Where a court filing contains 'business information that might harm a litigant's competitive standing'

1 the court may properly deny public access”. *Nixon v. Warner Commc’ns*, 435 U.S. 589, 598
2 (1978). The court held that the sealed information could harm Silver State’s ability to sell its
3 property if publicly disclosed.

4 On January 9, 2015, the Receiver again sought to seal (Dkt. 875) recommendation letters
5 related to six of the GP’s properties using the same authorities cited previously. The court granted
6 the Receiver’s request (Dkt. 924) stating that the information could “harm the GPs’ ability to sell
7 their properties if publicly disclosed.”

8 On February 19, 2015, the Receiver again sought to seal information related to the
9 proposed purchase price for the Jamul Valley Property (Dkt. 987). On February 20, 2015, the
10 court granted the Receiver’s request (Dkt. 990) stating, “the information the Receiver seeks to
11 file under seal could harm the GPs’ ability to sell the property if publicly disclosed.”

12 On April 2, 2015, the Receiver sought to seal information related to the sale of four
13 properties (Dkt. 1027). On April 6, 2015, the court granted the Receiver’s request (Dkt. 1039)
14 stating, the information could “harm the GPs’ ability to sell their properties if publicly disclosed.”
15 The Court further adopts the Receiver’s sealed recommendations (Dkt. 1028), stating they “make
16 sense” in light of them being below prior appraisals (Dkt. 1039).

17 On April 24, 2015, the Receiver again sought to seal information related to the proposed
18 purchase price for the Las Vegas 1 Property (Dkt. 1062). On June 17, 2015, the court granted
19 the Receiver’s request (Dkt. 1086) stating, “the information the Receiver seeks to file under seal
20 could harm the GPs’ ability to sell the property if publicly disclosed.” The court further approved
21 of the receiver’s sealed recommendations, indicating that, “The offer received for the Las Vegas
22 1 properties is worth consideration but more information is necessary, in the form of proposed
23 list prices, for the Receiver to make a further recommendation.”

24 On May 15, 2015, the Receiver again sought to seal information related to the proposed
25 purchase price for the Las Vegas 2 Property (Dkt. 1071). On June 17, 2015, the court granted
26 the Receiver’s request (Dkt. 1087) stating, “the information the Receiver seeks to file under seal
27 could harm the GPs’ ability to sell the property if publicly disclosed.” The court further adopts
28

1 the Receiver's recommendations, stating, "The offer received for the Las Vegas 2 property is
2 worth considering based on the financial state of its underlying GPs. Thus the court adopts the
3 Receiver's recommendation to ballot the investors regarding the letter of intent and report the
4 results to the court after 30 days"

5 On June 17, 2015, the court also issued a *redacted* order regarding the Jamul property in
6 which it sealed Dkt. 1020. The court held that the sealed information "could hinder the
7 Receiver's ability to negotiate and sell the property for the GPs." It is unclear from the docket
8 whether the Receiver requested that Dkt. 1020 be sealed or if the court made the determination
9 *sua sponte*. It is assumed from the limited available record that the information sealed is similar
10 to that of other Receiver recommendations.

11 On July 31, 2015, the Receiver requested to seal his recommendations regarding a Letter
12 of Intent to purchase the Las Vegas 2 Property (Dkt. 1107). On August 28, 2015, the court issued
13 a redacted order (Dkt. 1120) concerning the sale of the Las Vegas 2 Property. It is unclear what
14 the extent of the order is due to its extensive redactions. On August 31, 2015, the court granted
15 the Receiver's request and adopted the Receiver's recommendations under seal (Dkt. 1121).

16 On August 11, 2015, the Receiver requested to seal his recommendations regarding a
17 Letter of Intent to several properties (Dkt. 1112). On August 31, 2015, the court granted the
18 Receiver's request and adopted the Receiver's recommendations under seal (Dkt. 1123), stating
19 "the offers received for the Fernley I, Washoe IV, and Washoe V properties are worth considering
20 and submitting for a vote of the GPs in those properties."

21 On September 4, 2015, the Receiver requested to seal his recommendation regarding a
22 letter of intent to purchase the Stead Property (Dkt. 1131). On September 16, 2015 the court
23 granted the Receiver's request (Dkt. 1135) finding that the information could harm the GPs if
24 publicly disclosed.

25 Finally, on December 11, 2015, the Receiver requested to seal his recommendations
26 concerning the letters of intent to purchase the Dayton 1, Dayton IV, Fernley I, Las Vegas 2 and
27 Stead Properties. On January 14, 2016, the court granted the Receiver's request to seal his
28

1 recommendations addressing the Receiver’s recommendation regarding: (1) the Stead property
2 (Dkt. 1136); (2) the Las Vegas 1 property (Dkt. 1144); (3) the Fernley I, Washoe IV and Washoe
3 V properties (Dkt. 1145); and (4) the Dayton I, Dayton IV, Las Vegas 2 and Stead properties
4 (Dkt. 1159) in which the court adopted all Receiver recommendations.

5 IV.

6 **THE PREVIOUSLY SEALED RECORDS SHOULD BE UNSEALED**

7 “One of the most enduring and exceptional aspects of Anglo-American justice is an open
8 public [record]” to court documents and proceedings. *Phoenix Newspapers v. United States Dist.*
9 *Court*, 156 F.3d 940, 946 (9th Cir. 1998). “Indeed, throughout its evolution, the trial has been
10 open to all who cared to observe.” *Richmond Newspapers*, 448 U.S. 555, 564, 65 L.Ed. ed 973,
11 100 S. Ct. 2814 (1980). Additionally, “the courts of this country recognize a general right to
12 inspect and copy public records and documents, including judicial documents and records.”
13 *Nixon v. Warner Communications*, 435 U.S. 589, 597, 55 L.Ed. 2d 570, 98 S.Ct. 1306 (1978).

14 This right is justified by the interest of citizens in “keeping a watchful eye on the workings
15 of public agencies.” *Id.* at 598. Indeed, there is a strong presumption in favor of the common
16 law right to inspect and copy judicial records. *Valley Broadcasting Co. v. United States Dist.*
17 *Court*, 798 F.2d 1289, 1294 (9th Cir. 1986) (citing *United States v. Edwards*, 672 F.2d 1289,
18 1294 (7th Cir. 1982)).

19 While there is a strong presumption in favor of the right to inspect and copy records, it is
20 not an absolute right. “Thus, although we begin with the “presumed right of access to court
21 proceedings and documents,’ See *Oregonian Publ’g Co. v. United States Dist. Court*, 920 F.2d
22 1462, 1465 (9th Cir. 1990), the United States Supreme Court has articulated a two-part test,
23 known as the ‘experience and logic’ test, for determining whether a right of access attaches to a
24 particular kind of hearing. *Id.*”

25 When determining whether to suppress access to documents and proceedings, a court
26 begins with the presumption of access. *Phoenix Newspapers, supra.* at 949. “Unless a particular
27 court record is one ‘traditionally kept secret,’ a ‘strong presumption in favor of access’ is the
28

1 starting point.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003),
2 citing, *Hagestead v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995).

3 A party seeking to seal a judicial record then bears the burden of overcoming this strong
4 presumption by meeting the “compelling reasons” standard. *Foltz*, 331 F.3d at 1135. That is,
5 the party must “articulate[] compelling reasons supported by specific factual findings,” *Id.* (citing
6 *San Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1102-03 (9th Cir. 1999)), that
7 outweigh the general history of access and the public policies favoring disclosure, such as the
8 “public interest in understanding the judicial process.” *Hagestad*, 49 F.3d at 1434 (quoting
9 *EEOC v. Erection Co.*, 900 F.2d 168, 170 (9th Cir. 1990)). In turn, the court must
10 “conscientiously balance[] the competing interests” of the public and the party who seeks to keep
11 certain judicial records secret. *Foltz*, 331 F.3d at 1135. After considering these interests, if the
12 court decides to seal certain judicial records, it must “base its decision on a compelling reason
13 and articulate the factual basis for its ruling, without relying on hypothesis or conjecture.”
14 *Hagestad*, 49 F.3d at 1434 (citing *Valley Broad. Co. v. United States Dist. Court*, 798 F.2d 1289,
15 1295 (9th Cir. 1986)).

16 In general, “compelling reasons” sufficient to outweigh the public’s interest in disclosure
17 and justify sealing court records exist when such “court files might have become a vehicle for
18 improper purposes,” such as the use of records to gratify private spite, promote public scandal,
19 circulate libelous statements, or release trade secrets. *Nixon*, 435 U.S. at 598; accord *Valley*
20 *Broadcasting Co.*, 798 F.2d at 1294. The mere fact that the production of records may lead to a
21 litigant's embarrassment, incrimination, or exposure to further litigation will not, without more,
22 compel the court to seal its records. *Foltz*, 331 F.3d at 1136. With regard to non-dispositive
23 motions, litigants must make a “particularized” showing of good cause. *Kamakana v. City and*
24 *County of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006).

25 Further, even if denial of access is warranted, “the denial must be no greater than necessary
26 to protect the interest justifying it.” *Phoenix*, *supra* pg. 947-948. It is inappropriate to seal an
27 entire document when redaction would serve the compelling interest served by filing a document
28

1 under seal. Additionally, “when the factors militating in favor of closure no longer exist”,
2 documents formerly sealed should be open to the public.” *Id.*

3 Here, the weighing of the interests of the factors involved in the proceedings tips sharply
4 in favor of granting the investors (and the public) access to the sealed documents. This is
5 especially true when the Receiver has failed to articulate any specific “good cause” or
6 “compelling interest” to keep the documents hidden. The Receiver repeatedly states in each of
7 his motions that the opening of the documents “*could*” affect other offers negatively. However,
8 the Receiver does not explain how disclosure would make that happen. Nor does the Receiver
9 articulate that it is even “likely” the disclosure of the sealed documents would negatively impact
10 offers.

11 Also, to the extent partnership properties have already been sold or sales contracts have
12 been entered into, the sealing of documents is not particularly unwarranted because the “factors
13 militating in favor of closure no longer exist.” There is no need to seal the documents if there
14 are no longer any bids being taken.

15 Finally, the sealing of the documentation deprives the investors of the opportunity to
16 review and respond to the work performed by the receiver and the sales process of the properties
17 owned by the general partnerships.

18 **A. THE SEALING OF THE DOCUMENTS IS IN DIRECT**
19 **CONTRAVENTION TO THE JURISDICTIONAL REQUIREMENTS**
20 **AND POLICY UNDERPINNINGS OF 28 U.S.C. §2001**

21 28 U.S.C. §2001 provides the following regarding the private sale of realty from a
22 receivership:

23 (b) After a hearing, of which notice to all interested parties shall be given by publication
24 or otherwise as the court directs, the court may order the sale of such realty or interest or
25 any part thereof at private sale for cash or other consideration and upon such terms and
26 conditions as the court approves, if it finds that the best interests of the estate will be
27 conserved thereby. Before confirmation of any private sale, the court shall appoint three
28 disinterested persons to appraise such property or different groups of three appraisers each
to appraise properties of different classes or situated in different localities. No private sale
shall be confirmed at a price less than two-thirds of the appraised value. Before
confirmation of any private sale, the terms thereof shall be published in such newspaper or

1 newspapers of general circulation as the court directs at least ten days before confirmation.
 2 The private sale shall not be confirmed if a bona fide offer is made, under conditions
 3 prescribed by the court, which guarantees at least a 10 per centum increase over the price
 4 offered in the private sale.

5 The requirements of §2001 apply in Securities and Exchange Commission receiverships.
 6 *SEC v. Goldfarb*, 2013 U.S. Dist., Lexis 118942 (N.D. Cal. 2013). The requirements of 28 U.S.C.
 7 §2001 are mandatory. *Cumberland Lumber Co. v. Tunis Lumber Co.*, 171 F.352 (1909 4th
 8 Cir.)(Court held purpose of Congress enacting predecessor of 28 USC §2001 was mandatory);
 9 *see also Read v. Elliott*, 94 F.2d 55 (4th Cir. 1938). 28 U.S.C. §2001 mandates the following
 10 regarding a private sale of realty:

- 11 1) A hearing regarding the sale of the property, with notice being provided via
- 12 2) A court appointment of three disinterested persons to appraise the property;
- 13 3) No private sale shall be confirmed at a price less than 2/3 of the appraised value;
- 14 4) Prior to confirmation of a sale, the terms thereof are to be published in newspapers
- 15 of general circulation 10 days prior to confirmation; and
- 16 5) A private sale shall not be approved by the court if a bona fide offer is made for
- 17 10% greater than the price offered in the private sale.

18 Without complete transparency over the court-approved sales process, it is impossible for
 19 the requirements of 28 U.S.C. §2001 to be complied with. There is no way for a meaningful
 20 public hearing regarding the sale of the partnership properties if key information is kept hidden.
 21 There is no way for a meaningful publication of sale terms if the letters of intent are kept under
 22 seal. There is also no way for an investor to determine if there have been any offers exceeding
 23 10% of the sales price if offers and bids are kept hidden. The concept of a secret bidding process
 24 (presumptively, as an attempt to increase the offer prices) is not applicable when a receiver
 25 attempts to sell realty encompassed within his receivership.

26 28 U.S.C. §2001 requires transparency, published notices, disinterested appraisals, and
 27 the mandatory acceptance of offers exceeding 10% of a contemplated sales price. These goals
 28

1 cannot be met via a sub-rosa sales process that blocks key information from the very persons the
2 receiver has a duty to protect.

3 **B. THE INVESTORS HAVE A COMPELLING INTEREST IN VIEWING THE**
4 **SEALED DOCUMENTS.**

5 Without the opportunity to view the Receiver's recommendations regarding the sale of the
6 partnership assets, the competing offers to purchase the properties and the letters of intent
7 regarding the sale of the properties, it is not possible for the investors to meaningfully analyze
8 any sale of the properties and whether the contemplated sale of any particular partnership
9 property is actually in the best interests of the partnerships. The investors should be privy to key
10 information and should be allowed to share this information with their experts and appraisers in
11 order to determine if whether to oppose or support a sale. If investors are in the dark regarding
12 the sales process and the Receiver's recommendations, they will be at a severe informational
13 disadvantage. The denial of information to the investors is particularly egregious when the sales
14 are ostensibly taking place for their benefit.

15 **V.**

16 **CONCLUSION**

17 In light of the foregoing the Investor Group respectfully requests this Court grant the
18 instant motion in its entirety.

19
20 Dated: April 1, 2016

21 Respectfully submitted,
DILLON GERARDI HERSHBERGER
MILLER & AHUJA, LLP

22 s/ Timothy P. Dillon
23 Timothy P. Dillon, Esq.
24 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 April 1, 2016, I caused to be served the following documents described as:

- **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO UNSEAL AND/OR UNREDACT DKT. NOS. 826/835, 876/925, 988/991, 1028/1040, 1062/1089, 1072/1090, 1020/1088, 1108/1122/1120, 1113/1124, 1132/1136, 1159**

(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, maria@aguirrelawapc.com

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Susan Graham
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Eric Hougen
eric@hougenlaw.com

Sara D. Kalin
kalins@sec.gov, irwinma@sec.gov

Dated: April 1, 2016

s/ Ronnielyn Abrera
Ronnielyn Abrera

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DILLON GERARDI HERSHBERGER MILLER & AHUJA, LLP
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3 Carlsbad, California 92008
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5 E-Mail: tdillon@dghmalaw.com
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
14 v.

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

18 Defendants.
19
20

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

**DECLARATION OF TIMOTHY P. DILLON
IN SUPPORT OF MOTION TO UNSEAL
AND/OR UNREDACT DKT. NOS. 826/835,
876/925, 988/991, 1028/1040, 1062/1089,
1072/1090, 1020/1088, 1108/1122/1120,
1113/1124, 1132/1136, 1159**

Hearing:

Date: April 29, 2016

Time: 1:30 p.m.

Dept.: 2D

Judge: Hon. Gonzalo P. Curiel

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
3 called as a witness, could and would testify competently to such facts under oath.

4 2. I am the attorney for over 100 investors in the various general partnerships (the
5 Investor Group).¹

6 3. As part of advising the Investor Group, I have reviewed the extensive docket in this
7 matter. As part of reviewing the docket, I have discovered a number of sealed and/or redacted
8 documents that relate to the court-appointed receiver, Thomas E. Hebrank (“Receiver”) has

9
10
11 ¹ The Investor Group is comprised of more than 100 individual 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. Alguire
13 IRA, Jodi Pickering, Dana Anenberg, Linda Armas IRA, Emily J. Averill, Kent & Susan Averill, jointly, Kevin B. Bacon & Karin
14 Bacon Co-Trustees of The Bacon Family Trust, Jeanne Bavaro, Kathleen A. Becker Revocable Trust, Frank A. Bendrick, Patricia
15 A. Bendrick, Simon Bibeau SEP IRA, James C. Boore IRA, Regina S. Boore 401(k), Boore Family Trust, Ed & Irene Brabant,
16 Edward H. Brahant SEP IRA, Gregory & Kathleen Brown, Megan Brown, Megan Brown Trust dated 10/1/1991, Thomas & Susan
17 Brown 2001 Trust, Thomas & Susan Brown, Trustees, William & Linda Bruno, Patricia C. Buza IRA, Anita L. Byrum, Marc
18 Camras Roth IRA, Camras Family Trust, Donna Carlomagno, Paul Carlomagno, Patricia Carras, Patricia Carras Trust, Robert J.
19 Chastanet IRA, Robert J. & Rachel I. Chastanet, Takayuki & Tomoko Chubachi, Takayuki & Tomoko Chubachi Revocable Trust
20 dated Feb. 26, 2008, Cynthia Clarke, IRA, Douglas Clarke, Anthony M. Colangelo, Ken Corlett & Sylvana Corlett JTWRDS, Ken
21 Corlett, Roth IRA, Ken Corlett, SEP IRA, Kimberly A. Croke, Melanie Cullen, Richard Cullen, Christopher J. and Eileen L.
22 Davis, Matthew DeLine 401k Plan, Matthew DeLine IRA, Matthew DeLine, DeLine Family Trust, William J. Deline IRA, David
23 DeMarais, Mary Doan, Leo T. Dufresne Jr., IRA, Leo T. Dufresne Jr., IRA, Leo & Cindy Dufresne, Roger & Susan Engle, Roger
24 Engle, Letitia Fleming, Steven Goldman, Green Family Trust, Shawn T. Green, Timothy & Bessie Green, Michael Greenberg,
25 Jon Gunter, Pattie Gunter, Terry Hagen, Jensen Family Trust dated April 23, 1997, Credit Shelter Trust under the Jensen Family
26 Trust, Traci Jensen Hagerman Beneficiary IRA of Deceased Gregory Bullin-Jensen IRA, Susan E. Harrington, Wendy Hass, IRA,
27 Mikale Associates, Inc., Alejandro & Terri Haua, Reyna M. Haua, James R. Hettinger, Spirit At Work, Inc., Ho Trust Dated
28 10/10/2007, Tjung-Ling Ho, Roselynn Ho Trustees, Richard Howe, John Huang, Priscilla Huang, Ned Iguchi Trust, Angelique
Judd, Christopher & Angelique Judd, Della June, Ronald Karp, Roth IRA, Ruey Ken, 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 A. McLaren & Luzviminda T.
McLaren, Trustees of McLaren Family Trust dated 4/8/2008, 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, Noel F. Owen, 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, Roland
Ramirez, Elizabeth L. Ray, Reed Family Trust, Robert E. & Elaine H. Richardson, Daniel Richter, Daniel Richter, IRA, Ken
Robinson, Joseph J. Rousseau (but name not on purchase contract), Pamela J. Russell, 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. Tepley IRA, John & Cynthia A. Tepley, Joe Toledo, Kenny & Leslie Tung, Jenny Wang, Alan
& Gail Whetsine, Richard Wodiske DDS Inc. Defined Contribution Plan, Richard Wodiske Trustee, Wodiske Family Trust,
Richard & Laurie Wodiske Trustees (collectively, the “Investor Group”).

1 obtained related to the offer for sale, marketing, positioning or recommendations made. These
 2 sealed and/or redacted filings include:

Docket No.	Sealed Documents	Reason for Sealing
826/835	Offers to purchase the property held by Silver State Partners	(Dkt. 825) "... It involves information, including the amount of the offer, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."
876/925	Recommendations Regarding Letters of Intent to Purchase Six Properties	(Dkt. 875) "... It involves information, including the proposed purchase prices, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the properties..."
988/991	Recommendations Regarding Letters of Intent to Purchase Jamul Valley Property	(Dkt. 987) "... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."
1028/1040	Recommendations Regarding Letters of Intent to Purchase Four Properties	(Dkt. 1027) "... It involves information, including the proposed purchase prices, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the properties..."
1062/1089	Recommendation Regarding Letter of Intent to Purchase Las Vegas 1 Properties	(Dkt. 1062) "... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."
1072/1090	Recommendation Regarding Letter of Intent to Purchase Las Vegas 2 Property	(Dkt. 1062) "... It involves information, including the proposed purchase prices, which if publicly disclosed, could negatively affect the amount of other

Docket No.	Sealed Documents	Reason for Sealing
		offers and therefore the ultimate price for the property..."
1020/1088 (redacted)	Status information regarding Jamul Properties	Dkt. 1088 "This information could hinder the Receiver's ability to negotiate and sell the property for the GPs"
1108/1122 1120 (redacted)	Further Recommendation Regarding Letter of Intent to Purchase Las Vegas 2 Property	(Dkt. 1107) "... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."
1113/1124	Recommendation Regarding Letters of Intent to Purchase Fernley I, Washoe IV, and Washoe V Properties	(Dkt. 1112) "... It involves information, including the proposed purchase prices, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the properties..."
1132/1136	Recommendation Regarding Letter of Intent to Purchase Stead Property	(Dkt. 1131) "... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."
1159	Recommendation Regarding Letter of Intent to Purchase Dayton 1, Dayton IV, Fernley I, Las Vegas 2 and Stead Properties	(Dkt. 1158) "... It involves information, including the proposed purchase price, which if publicly disclosed, could negatively affect the amount of other offers and therefore the ultimate price for the property..."

4. To date, I have not received copies of the sealed or redacted documents. On March 31, 2016, I requested access to the sealed and/or redacted documents. On March 31, 2016 and again on April 1, 2016, Ted Fates, counsel for the Receiver indicated I should get them from Gary Aguirre. Mr. Aguirre is representing a separate group of investors. I have not received the

1 documents from Mr. Aguirre and believe that the Investor Group should be given access to the
2 documents from the court or from the Receiver. A true and correct copy of the email dated April
3 1, 2016 between Ted Fates and me is attached as **Exhibit “1”**.

4 5. I also sought to have the Receiver agree to unseal and/or unredact the documents
5 filed related to the Receiver’s recommendations filed with the Court. To date, Mr. Fates has not
6 responded to my request (See Exhibit 1).

7 6. Good cause exists to have these documents unsealed. The Investor Group has
8 retained Xpera Group to analyze the positioning of each of the 23 GP properties to review the
9 course of action to maximize the return to investors, including the Investor Group. Xpera Group
10 can review the prior recommendations to determine if the Receiver’s proposals are designed to
11 maximize investor return.

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

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

26 9. It is anticipated that Xpera will not recommend the immediate sale of many of the
27 general partnership properties, but rather, would recommend a “repositioning” of the real estate
28

1 (i.e. by the obtaining of entitlements, zoning variances, marketing of entitlements already
2 obtained, etc.) and a change in the way the assets are marketed and valued.

3 10. Unsealing the documents would be consistent with the spirit of 28 USC §2001.
4 Section 2001 is intended to protect persons such as those in the Investor Group, by requiring
5 three independent appraisers to value real properties, publishing the terms of the sale in advance
6 to allow for overbid.

7 11. It is unclear from the state of the sealed and redacted record if the Receiver has
8 obtained authority to sell one or more of the properties. Depending on where in the process the
9 sales process is, the investors would like the opportunity to review the terms of sale and, if
10 appropriate, provide alternatives to maximize the value for said properties

11
12 This declaration is signed in Carlsbad, California as of the 1st day of April 2016 under the
13 laws of the United States of America.

14
15 s/ Timothy P. Dillon
16 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 April 1, 2016 I caused to be served the following documents described as:

- **DECLARATION OF TIMOTHY P. DILLON IN SUPPORT OF MOTION TO UNSEAL AND/OR UNREDACT DKT. NOS. 826/835, 876/925, 988/991, 1028/1040, 1062/1089, 1072/1090, 1020/1088, 1108/1122/1120, 1113/1124, 1132/1136, 1159**

(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, maria@aguirrelawapc.com

Lynn M. Dean
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Sara D. Kalin
kalins@sec.gov, irwinma@sec.gov

Dated: April 1, 2016

s/ Ronnielyn Abrera
Ronnielyn Abrera