

1 SAM S. PUATHASNANON, Cal. Bar No. 198430

2 Email: puathasnanons@sec.gov

3 LYNN M. DEAN, Cal. Bar. No. 205562

4 Email: deanl@sec.gov

5 SARA D. KALIN, Cal. Bar No. 212156

6 Email: kalins@sec.gov

7 Attorneys for Plaintiff

8 Securities and Exchange Commission

9 Michele Wein Layne, Regional Director

10 John W. Berry, Regional Trial Counsel

11 5670 Wilshire Boulevard, 11th Floor

12 Los Angeles, California 90036

13 Telephone: (323) 965-3998

14 Facsimile: (323) 965-3908

15 **UNITED STATES DISTRICT COURT**

16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 SECURITIES AND EXCHANGE  
18 COMMISSION,

19 Plaintiff,

20 vs.

21 LOUIS V. SCHOOLER and FIRST  
22 FINANCIAL PLANNING  
23 CORPORATION d/b/a WESTERN  
24 FINANCIAL PLANNING  
25 CORPORATION,

26 Defendants.

Case No. 12 CV 2164 GPC JMA

**DECLARATION OF  
JAMES AND KAREN MILLER**

**DECLARATION OF JAMES AND KAREN MILLER**

JAMES AND KAREN MILLER hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. Each of us has personal knowledge of the matters set forth herein and, if called as witnesses, could and would competently testify hereto under oath.

2. We live in Poway, California, and are retired.

3. We jointly decided to invest with Western Financial Planning Corporation (“Western”) over 20 years ago to buy an interest in Rainbow Partners, and have followed the SEC’s case against Western and Louis Schooler by reading the Receiver’s website.

4. We share an e-mail account in Karen’s name ([runslowrunner@att.net](mailto:runslowrunner@att.net)), which is our family account. Each of us has access to the e-mail account and has used it to send e-mails. In or around early August of this year, we began receiving e-mails from a man named Dennis Gilman. Gilman’s e-mails appear to have been sent to numerous Western investors in various Western-sponsored general partnerships (“GPs”). The e-mails informed investors that Gilman and a committee had decided to try to take action to remove the GPs from receivership, and encouraged other investors to do the same. In addition, the e-mails informed investors that they would be receiving ballots to vote on whether they wanted to remain in receivership, and whether they wanted to hire attorney Gregory Post. A true and correct copy of an e-mail we received from Gilman on August 7, 2014 is attached hereto as Exhibit A.

5. We did, in fact, receive a ballot on August 12, 2014. The ballot was e-mailed to us by Beverly Schuler, who we understood was our partnership administrator. Schuler asked us to complete and return the ballot as quickly as possible. A true and correct copy of Schuler’s August 12, 2014 e-mail is attached hereto as Exhibit B.

1           6.     We did as Schuler asked, and quickly completed and returned two  
2 ballots (one in the name of James R. Miller, and one in the name of James R.  
3 Miller, IRA). Both of our ballots voted against taking legal steps to remove the  
4 partnership from control of the Receiver, because we believe it is in our best  
5 interest for Rainbow Partners to remain in receivership. We were also concerned  
6 about the idea of attorney Post being involved, because Gilman's August 7, 2014  
7 e-mail (Exhibit A hereto) stated that Post was "known by the lawyers defending  
8 the Defendants in the original case," which we believed meant that Post was  
9 somehow affiliated with Western's attorneys. True and correct copies of our  
10 ballots are attached to the Rainbow Partners brief filed September 12, 2014 (Dkt.  
11 757).

12           7.     On August 18, 2014, we received an e-mail from Gilman in which he  
13 encouraged investors to submit briefs on behalf of their GPs asking for removal  
14 from receivership. Gilman informed investors that he would work to find a  
15 template to use, and directed investors to the web page at [www.secvsschooler.com](http://www.secvsschooler.com)  
16 for exemplar briefs. A true and correct copy of Gilman's August 18 e-mail is  
17 attached hereto as Exhibit C.

18           8.     In addition to completing the ballots Schuler asked us to return, we  
19 also wrote a statement to be included in the Rainbow Partners brief, because it was  
20 our understanding that the Court had allowed dissenting opinions to be included in  
21 each GP brief, and we wanted to make sure our point of view was heard by the  
22 Court even if a majority of the GP investors voted to remove the GP from  
23 receivership. We sent an e-mail to Schuler on August 28, 2014, attaching our  
24 statement for the brief. In the e-mail, which was signed by Jim, but drafted by both  
25 of us, we specifically explained that our statement was attached, that if the GP  
26 voted to remain in receivership, the statement could be included as a supporting  
27 document, and that if the GP voted to be removed from receivership, it should be  
28 included in the GP brief as a dissenting opinion. A true and correct copy of the e-

1 mail we sent to Schuler on August 28 is attached hereto as Exhibit D, and a true  
2 and correct copy of our statement, which was attached to the e-mail, is attached  
3 hereto as Exhibit E.

4 9. Within minutes of sending our August 28 e-mail to Schuler, she  
5 forwarded the e-mail to Gilman and Post, with a copy to us. A true and correct  
6 copy of Schuler's e-mail to Gilman and Post is attached hereto as Exhibit F.

7 10. On August 29, 2014, we received an additional e-mail from Gilman  
8 describing the roles of the partnership administrators, Schuler and Alice Jacobson.  
9 In the e-mail, Gilman stated that Jacobson and Schuler "have been completely  
10 divorced from Western for over three years." He also said that he was thankful  
11 they had agreed to continue acting as partnership administrators because "[w]ithout  
12 them, we would be completely lost." A true and correct copy of Gilman's August  
13 29 e-mail is attached hereto as Exhibit G.

14 11. On September 2, 2014, Gilman sent a long e-mail to investors  
15 attaching a template brief and a template request to speak at the October 10, 2014  
16 hearing, both of which could be filed by the GPs. Gilman provided very detailed  
17 instructions on how to make the filings, including which language to change in  
18 each document in order for the documents to specifically apply to each GP.  
19 Gilman asked that investors who experienced problems with the templates contact  
20 him, and said that he would then ask Post to contact the investors directly. A true  
21 and correct copy of Gilman's September 2 e-mail is attached hereto as Exhibit H, a  
22 true and correct copy of the template brief attached to his email is attached hereto  
23 as Exhibit I, and a true and correct copy of the template filing to request to speak at  
24 the hearing is attached hereto as Exhibit J.

25 12. As part of Gilman's September 2 e-mail (Exhibit H hereto), he listed a  
26 number of GPs that "The Committee" proposed representing. Our GP, Rainbow  
27 Partners, was nowhere on the list, so we were confused about why Gilman or any  
28 of the committee members had been involved in the balloting of our partnership.

1 We sent an e-mail to Beverly Schuler the same day, asking her who represented  
2 our partnership, what the ballot count had been, and why she had forwarded our  
3 statement of opposition to Gilman if he was not representing Rainbow Partners.  
4 Schuler answered none of our questions and simply referred us back to Gilman.  
5 We responded to Schuler asking why she was not able to provide us with this  
6 information if she was the independent partnership administrator responsible for all  
7 of the duties Gilman had listed in his August 29 e-mail (Exhibit G hereto). Schuler  
8 never answered our questions. A true and correct copy of the September 2 e-mail  
9 chain between Schuler and us is attached hereto as Exhibit K. We jointly drafted  
10 all of the e-mails included in Exhibit K that were sent from our account, but Jim  
11 signed them.

12 13. On September 5, 2014, we heard from another Rainbow Partners  
13 investor that Gilman had said the GP vote counts would be posted on September 8,  
14 2014. September 8 came and went with no information regarding how our GP had  
15 voted, so we contacted Gilman on September 9, 2014. Gilman told us that he  
16 hoped to have the final tally to us the next day (September 10, 2014). A true and  
17 correct copy of the e-mail chain in which the exchange described above occurred is  
18 attached hereto as Exhibit L.

19 14. On September 10, 2014, two days before our GP briefs were due, we  
20 became concerned because we did not yet know how our GP had voted, whether it  
21 would be filing a brief, and if it did file a brief, what the brief would say. We e-  
22 mailed Schuler and Jacobson asking them for a draft of the brief and reminding  
23 them that we had previously submitted a statement of opposition regarding the  
24 removal of the Receiver. Schuler's response was that we should contact Dennis  
25 Gilman. We then contacted Gilman asking for a copy of any brief that would be  
26 submitted on behalf of Rainbow Partners, and for a final ballot count. Despite the  
27 fact that Gilman had told us the day before that he hoped to provide a final ballot  
28 count by September 10, his response was that because no one had "stepped up to

1 provide a brief for Rainbow Partners,” there was no final count available. He also  
2 told us that because no one had stepped up, Post might file a brief for Rainbow  
3 Partners. A true and correct copy of the September 10 e-mail chain between  
4 Schuler, Gilman, and us, is attached hereto as Exhibit M. We jointly drafted all of  
5 the e-mails included in Exhibit M that were sent from our account, but Jim signed  
6 them.

7       15. We were confused and frustrated upon receiving Gilman’s response  
8 for several reasons. First, neither Gilman nor Post appeared to be investors in our  
9 GP or otherwise authorized to act on behalf of our GP, but the partnership  
10 administrators refused to provide us with any information and only referred us to  
11 Gilman when we asked questions about the process. Second, we were concerned  
12 that we were not being given all pertinent information, like what the vote tally had  
13 been for our GP up to that point, or what any brief that might be filed on behalf of  
14 Rainbow Partners would look like. Third, we were upset that Gilman initially told  
15 us he would provide us with a final ballot count, but then told us no count was  
16 available because no one had stepped up to submit a brief. We felt like the entire  
17 process was being manipulated to keep us from being able to appropriately act in  
18 our own best interest. As a result, we decided to forward our statement of  
19 opposition to Schuler and Gilman again, just to make sure everyone was aware of  
20 our point of view. We didn’t know how else to proceed. A true and correct copy  
21 of the e-mail we sent to Schuler and Gilman on September 11, 2012, re-sending  
22 our statement of opposition, is attached hereto as Exhibit N. We attached the same  
23 statement of opposition we had sent before (Exhibit E hereto). We jointly drafted  
24 the e-mail in Exhibit N, but Jim signed the e-mail.

25       16. Following our September 11 e-mail to Schuler and Gilman, we heard  
26 nothing and assumed that Rainbow Partners hadn’t filed a brief after all. It was not  
27 until our first phone conversation with Sara Kalin, of the Securities and Exchange  
28 Commission, on September 24, 2014, that we learned that Rainbow Partners had



1 filed a brief on September 12, 2014, requesting removal from receivership, and that  
2 our statement of opposition had not been included.

3  
4 We declare under penalty of perjury under the laws of the United States that  
5 the foregoing is true and correct.

6  
7 Executed on September 25, 2014 in Poway, California

8  
9  
10   
11 \_\_\_\_\_  
12 JAMES MILLER

13   
14 \_\_\_\_\_  
15 KAREN MILLER

**SEC v. Louis V. Schooler and First Financial Planning Corporation**  
**U.S.D.C. S.D. California**  
**Case No. 12 CV 2164 GPC (JMA)**

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**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

☒ **U.S. SECURITIES AND EXCHANGE COMMISSION**, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On September 26, 2014, I caused to be served the document entitled **DECLARATION OF JAMES AND KAREN MILLER** on all the parties to this action addressed as stated on the attached service list:

☐ **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

☐ **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

☐ **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

☐ **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

☐ **UNITED PARCEL SERVICE:** By placing in sealed envelope(s) designated by United Parcel Service ("UPS") with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

☒ **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

☒ **E-FILING:** By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

☐ **FAX:** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: September 26, 2014

/s/ Sara D. Kalin  
Sara D. Kalin

**SEC v. Louis V. Schooler, et al.**  
**United States District Court – Southern District of California**  
**Case No. 12 CV 2164 GPC JMA**  
**(LA-4059)**

**SERVICE LIST**

Eric Hougen, Esq. (served via CM/ECF only)  
Hougen Law Offices  
624 Broadway, Suite 303  
San Diego, CA 92101  
Email: eric@hougenlaw.com  
***Attorney for Defendants Louis V. Schooler First Financial  
Planning Corporation d/b/a Western Financial Planning  
Corporation***

Philip H. Dyson, Esq. (served via CM/ECF only)  
Law Offices of Philip Dyson  
8461 La Mesa Boulevard  
La Mesa, CA 91941  
Email: phildysonlaw@gmail.com  
***Attorney for Defendants Louis V. Schooler First Financial  
Planning Corporation d/b/a Western Financial Planning  
Corporation***

Edward Patrick Swan, Jr., Esq. (served via CM/ECF only)  
Jones Day  
12265 El Camino Real, Suite 200  
San Diego, CA 92130  
Email: pswan@jonesday.com  
***Attorney for Defendants Louis V. Schooler First Financial  
Planning Corporation d/b/a Western Financial Planning  
Corporation***

Ted Fates, Esq. (served via CM/ECF only)  
Allen Matkins Leck Gamble Mallory & Natsis LLP  
501 W. Broadway, 15th Floor  
San Diego, CA 92101  
Email: tfates@allenmatkins.com  
***Attorney for Court-Appointed Receiver, Thomas C. Hebrank***

Thomas C. Hebrank, CPA, CIRA (served via electronic mail only)  
E3 Advisors  
401 W. A Street, Suite 1830  
San Diego, CA 92101  
Email: thebrank@ethreadvisors.com  
***Court-Appointed Receiver***

## **EXHIBIT A**

From: [Karen Miller](#)  
To: [Kalin, Sara](#)  
Subject: Gilman correspondence 7/2/14, 7/19/14, 7/22/14, 8/7/14  
Date: Wednesday, September 24, 2014 12:04:35 PM  
Attachments: [Email to investors wk of 070214.docx](#)  
[Email to investors wk of 071914.docx](#)  
[Email to investors wk of 072214.docx](#)  
[SEC v. Schooler\\_072214.pdf](#)

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Begin forwarded message:

**From:** Dennis Gilman <[DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)>  
**Subject:** Rainbow Partners  
**Date:** August 7, 2014 at 1:45:54 PM PDT

Dear investor,

If you have not previously received emails from me concerning your investments and the stranglehold held on them by the Receiver and Court, please review the attached word files dated 070214, 071904 and 072214. I am now, hopefully, using a more updated email list.

The purpose of this email is to give you a "heads up" to look for a ballot coming your way from the Administrative Secretary for your GP in the very near future. When you receive it, please act upon it immediately following the directions you receive with the ballot.

In my last email, I told you a small group was formed after the last court hearing on July 18 in San Diego. This group of seven investors volunteered to explore the avenues available to remove our investments from the control of the Receiver, and to communicate these means to our fellow investors. The group was voted to proceed to work in this regard by approximately 35 investors who met in the hall outside the court after the hearing. Understand, this "committee" has no official authority to do anything, but is formed as an informal group to seek the means to remove our partnerships from the control of the Receiver and Court, and to communicate the same to our fellow investors.

Again, let me repeat what I have conveyed to the investors before: unless we remove our properties from control of the Receiver we cannot proceed to sell the properties, or to do anything else with them. Therefore, the committee's focus has only one purpose: to identify the steps necessary to remove the General Partnerships from the receivership imposed by the Court; we will not attempt any action in any other direction.

So where are we? On July 30, the above Committee met in San Diego to review the court order of July 18 and to discuss how to act upon the

Court's order. Essentially, the court set a hearing on October 10, 2014 at which time the GPs will be permitted to respond to the Court's decision to keep the GPs in the receivership. The Court ordered that "Each GP may file a single brief...in response to the Court's decision to keep the GPs in the receivership." So, we are now in the process of balloting each GP to see if the individual GPs want to stay under the control of the Receiver, or be removed from the control of the Receiver.

In order to initiate the above ballot, it is our understanding that at least one investor from each GP must make a request directly to the Administrative Secretary for the GP, in this case Alice Jacobson. This being the case, we have started the ball in motion by submitting a request to Ms. Jacobson from each of the Committee members for the properties in which they are invested. Their names and properties are listed below. Other investors are beginning to step forward for their respective GPs and make the request to the Administrative Secretary. The ballot will ask only one thing as follows (or in similar language):

( ) YES, I CAST ALL OF MY UNIT VOTES IN FAVOR OF REQUESTING THE PARTNERSHIP TO TAKE THE LEGAL STEPS NECESSARY TO REMOVE THE GENERAL PARTNERSHIP FROM THE RECEIVERSHIP

( ) NO, I CAST ALL OF MY UNIT VOTES TO KEEP THE GENERAL PARTNERSHIP IN THE RECEIVERSHIP.

Given the large number of responses I have received to date from the investors, I am confident the vote will be clearly overwhelming in favor of removing our investments from the control of the Receiver. If the vote is as predicted, a brief will be submitted to the court for each GP by the deadline of September 12, 2014. The brief will make the argument as to why the GPs should not be retained under the control of the Receiver, our vote tally, and whether or not we want to be heard in open court at the October 10, 2014 hearing. A pdf file of the court ruling is attached.

Understand, some investors are certain to vote to stay in the receivership (Vote NO). In this case, according to the Court Order: "If an individual investor within a particular GP disagrees with his or her GP's official response to the Court's decision, the individual's point of disagreement shall be included in a separate section of his or her GP's official response. ..." So, if you want to stay under the thumb of the Receiver, you will be able to voice your preference.

Now we come to the question of obtaining legal counsel for the purpose of filing the brief. You'll note the name of Greg Post on the list of Committee names below. He is an attorney who has already filed a brief on behalf of one partnership prior to the July 18 hearing, and, therefore, is intimately

familiar with the SEC case against Louis Schooler and Western Financial Planning Corporation. Further, he is an investor in two properties, and, he has already written a draft brief to be submitted to the Court by September 12 on behalf of the GPs voting “yes” in the majority. He is also known by the lawyers defending the Defendants in the original case, Louis Schooler and Western Financial. In our opinion, we submit to you that it will be virtually impossible, in the time available, to find an attorney agreeable to the majority of folks in any partnership, and for that attorney to come up to speed on two years of Court documents, and to write a brief for each GP. Therefore, the Committee strongly proposes we move forward with Greg Post. If you disagree, vote “No” to stay in receivership.

This now brings us to the attorney costs. After substantial discussions with Greg Post and reviewing the work he has already completed, we estimate the cost to each investor in each partnership will not exceed \$30.00 each. We do not think it will be necessary to pay any monies up front; the GPs will be billed directly – much like any other expense. Folks, have any of you heard of lawyer costs being this reasonable? And the \$30.00 is our maximum estimate.

As of the date of this email, I have not received any notice from the Receiver concerning the results of the July 18<sup>th</sup> hearing. Have you? This doesn’t surprise me, since any delay by the Receiver to keep the investor in the dark works to his advantage. The shorter the time to act will make it unlikely the GPs will be able to notify the Court of its wishes. But, we have a plan and we are executing it. With a little luck and your quick response, we will get the Receiver and Court off our backs.

Stay tuned for updates. If you don’t want to receive my emails, let me know.

Dennis P. Gilman, Ph.D.

#### Committee

Bill Loeber (Poway): Big Ranch, Twin Plant, Hidden Hills  
Elena Luz Gomez (San Diego): Twin Plant, Suntec  
Chris Boore (Poway) : Vista Del Sur, Pueblo, Pyramid Highway 177,  
Falcon Heights, Silver City  
Bruce Case (Fountain Valley): Antelop Springs, Storey County, Rose  
Vista, Ocotillo View  
Greg Post: Road Runner, Silver City  
Peter Kuilema (Temecula): Nighthawk Partners, Dayton#2  
Dennis Gilman (Sparks, NV): Lyons Valley, Honey Springs Partners, VIA



188, Checkered Flags

## **EXHIBIT B**

**From:** [Karen Miller](#)  
**To:** [Kalin, Sara](#)  
**Subject:** Schuler's email re Ballot for Removal of Receiver  
**Date:** Wednesday, September 24, 2014 12:06:25 PM  
**Attachments:** [Rainbow Paratners - Exhibit A 8-12-14.pdf](#)  
[RAINBOW PARTNERS - -BALLOT FOR REMOVAL OF RECEIVERSHIP Aug 2014.docx](#)  
**Importance:** High

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I am not sure you have this one.

Begin forwarded message:

**From:** "Beverly Schuler" <[bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)>  
**Subject:** Rainbow Partners - Ballot for Removal of Receiver  
**Date:** August 12, 2014 at 5:26:12 PM PDT  
**To:** "Linda Baldwin Contacts Email" <[dbaldwi3@san.rr.com](mailto:dbaldwi3@san.rr.com)>, "Chris W and Rhonda Caldwell Contacts Email" <[caldwellcw@hotmail.com](mailto:caldwellcw@hotmail.com)>, "Richard and Cynthia Dorney Alternate Email" <[cindydorney@cox.net](mailto:cindydorney@cox.net)>, "Richard and Cynthia Dorney Contacts Email" <[cindy.dorney@gmail.com](mailto:cindy.dorney@gmail.com)>, "Patti J Harrison Contacts Email" <[pjharrison@cox.net](mailto:pjharrison@cox.net)>, "Richard H and Elva Harrison Contacts Email" <[Rick.LaLuna@comcast.net](mailto:Rick.LaLuna@comcast.net)>, "Richard H and Elva Harrison Spouses Email" <[ElvaRH@comcast.net](mailto:ElvaRH@comcast.net)>, "David L Hoak Contacts Email" <[dave30at30b@aol.com](mailto:dave30at30b@aol.com)>, "Robert and Noreen Holman Contacts Email" <[bobmectec@aol.com](mailto:bobmectec@aol.com)>, "David L and Barbara Hyde Contacts Email" <[davidlhyde@sbcglobal.net](mailto:davidlhyde@sbcglobal.net)>, "Robert S and Valerie Indihar Contacts Email" <[bindihar@yahoo.com](mailto:bindihar@yahoo.com)>, "Robert S and Valerie Indihar Spouses Email" <[valindihar@yahoo.com](mailto:valindihar@yahoo.com)>, "Tomasz M and Monika Jagielinski Alternate Email" <[jagielinskit@cumminsallison.com](mailto:jagielinskit@cumminsallison.com)>, "Tomasz M and Monika Jagielinski Contacts Email" <[tomaszj02@gmail.com](mailto:tomaszj02@gmail.com)>, "David and Sandra Jones Alternate Email" <[dszjones@yahoo.com](mailto:dszjones@yahoo.com)>, "David and Sandra Jones Contacts Email" <[dszjones@gmail.com](mailto:dszjones@gmail.com)>, "George Jurica Alternate Email" <[gjurica@pencoeng.com](mailto:gjurica@pencoeng.com)>, "George Jurica Contacts Email" <[gjurica@pencoeng.com](mailto:gjurica@pencoeng.com)>, "Nancy Kemper Alternate Email" <[kemper@hns.com](mailto:kemper@hns.com)>, "Nancy Kemper Contacts Email" <[nkemper@umich.edu](mailto:nkemper@umich.edu)>, "Paul E and Joan King Contacts Email" <[peking@hawaii.rr.com](mailto:peking@hawaii.rr.com)>, "Dan Laframboise Alternate Email" <[danl@dlwealth.com](mailto:danl@dlwealth.com)>, "Dan Laframboise Contacts Email" <[dlaframboise@san.rr.com](mailto:dlaframboise@san.rr.com)>, "Paul and Lea Leccese Alternate Email" <[lleccese@san.rr.com](mailto:lleccese@san.rr.com)>, "Paul and Lea Leccese Contacts Email" <[paul@aplabs.com](mailto:paul@aplabs.com)>, "David H and Ariel Lyon Contacts Email" <[dlyonarch@adelphia.net](mailto:dlyonarch@adelphia.net)>, "Mildred M Mealey Contacts Email" <[m3mealey@san.rr.com](mailto:m3mealey@san.rr.com)>, "James R and Karen Miller Spouses Email" <[runslowrunner@att.net](mailto:runslowrunner@att.net)>, "Richard L Moore Contacts Email" <[ricmor@cox.net](mailto:ricmor@cox.net)>, "Neil J and Neveda L Ormonde Contacts Email" <[neilnevada@gmail.com](mailto:neilnevada@gmail.com)>, "David E and Judith L Paul Contacts Email" <[djpaul\\_1@mac.com](mailto:djpaul_1@mac.com)>, "Edward B and Carol Ramirez II Spouses Email" <[12eramirez12@cox.com](mailto:12eramirez12@cox.com)>, "Richard A and Joan Rupp Contacts Email"

<[richardarupp@yahoo.com](mailto:richardarupp@yahoo.com)>, "Richard A and Joan Rupp Spouses Email"  
<[joanrupp@gmail.com](mailto:joanrupp@gmail.com)>, "Connie Sathre Contacts Email"  
<[cmscjs@amafrog.com](mailto:cmscjs@amafrog.com)>, "Curtis J and Christine Sathre III Contacts  
Email" <[curtissathre@cox.net](mailto:curtissathre@cox.net)>, "Curtis J and Christine Sathre III  
Spouses Email" <[cris\\_sathre@yahoo.com](mailto:cris_sathre@yahoo.com)>, "Beverly Schuler and Chris  
Coulter Contacts Email" <[beverlyschuler@dslextreame.com](mailto:beverlyschuler@dslextreame.com)>, "Dennis K  
and Sheila Schwander Alternate Email" <[tpncjmiller@aol.com](mailto:tpncjmiller@aol.com)>, "Dennis  
K and Sheila Schwander Contacts Email" <[dkschwan@cox.net](mailto:dkschwan@cox.net)>, "Dennis  
K and Sheila Schwander Spouses Email"  
<[pckitchenparamedic@cox.net](mailto:pckitchenparamedic@cox.net)>, "Daniel F and Sona Stork Contacts  
Email" <[dstork@earthlink.net](mailto:dstork@earthlink.net)>, "Gary P and Mary Thimes Contacts  
Email" <[gary.thimes@yahoo.com](mailto:gary.thimes@yahoo.com)>, "Mary Thimes Contacts Email"  
<[katie.thimes@yahoo.com](mailto:katie.thimes@yahoo.com)>, "Sharlene Tracanna Contacts Email"  
<[stw@san.rr.com](mailto:stw@san.rr.com)>, "Michael R and Catherine Wertz Contacts Email"  
<[wertzmr@aol.com](mailto:wertzmr@aol.com)>, "Michael R and Catherine Wertz Spouses Email"  
<[ktwertz@aol.com](mailto:ktwertz@aol.com)>, "Western Financial Planning Corp Contacts Email"  
<[louissschooler@gmail.com](mailto:louissschooler@gmail.com)>, "Karie Wright Contacts Email"  
<[kjwright0719@gmail.com](mailto:kjwright0719@gmail.com)>

Dear Rainbow Partners,

We have received requests from one of your co-partners to have the control of the  
Partnership removed from receivership (E3 Advisors).

Attached is a ballot for you to cast your vote.

Also attached is an Exhibit A which shows your percents of ownership in the  
investment. If you see your name more than once, please make copies for each  
percent of ownership. Please vote for each option, sign and return.

Please act upon it immediately and have your response back to us by no later than  
August 31, 2014. This is so that all votes can be counted and ready for submission to  
the courts by Sept 12, 2014.

Thank you,

Beverly Schuler  
email: [bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)  
Alice Jacobson  
email: [alice@wcas.sdcoxmail.com](mailto:alice@wcas.sdcoxmail.com)  
FAX: (769) 295-4632  
**West Coast Administrative Services**  
270 N. El Camino Real #F533  
Encinitas, CA 92024

## **EXHIBIT C**



**From:** Karen Miller  
**To:** Kalin, Sara  
**Subject:** Gilman's email of 8/18/14  
**Date:** Wednesday, September 24, 2014 12:08:01 PM

---

Begin forwarded message:

**From:** Karen Miller <[runslowrunner@att.net](mailto:runslowrunner@att.net)>  
**Subject:** Fwd: Rainbow Partners  
**Date:** August 26, 2014 at 8:57:25 AM PDT  
**To:** "James R. Miller" <[runslowrunner@att.net](mailto:runslowrunner@att.net)>

Sent from my iPhone

Begin forwarded message:

1) Is anyone willing to step forward and **speak forcefully for Rainbow and Horizon** on October 10, 2014?

2) Is anyone willing to take responsibility for **filing a brief for Rainbow and Horizon** by September 12, 2014?

Please forward your names to Dennis Gilman at  
[DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)

---

**From:** Dennis Gilman [<mailto:DPGilman@clindm-llc.com>]  
**Sent:** Monday, August 18, 2014 8:56 AM  
**To:** [dbaldwi3@san.rr.com](mailto:dbaldwi3@san.rr.com); [caldwellcw@hotmail.com](mailto:caldwellcw@hotmail.com); [john-chau@hotmail.com](mailto:john-chau@hotmail.com); [cindy.dorney@gmail.com](mailto:cindy.dorney@gmail.com); [Rick.LaLuna@comcast.net](mailto:Rick.LaLuna@comcast.net); [pjharrison@cox.net](mailto:pjharrison@cox.net); [bobmectec@aol.com](mailto:bobmectec@aol.com); [davidlhyde@sbcglobal.net](mailto:davidlhyde@sbcglobal.net); [bindihar@yahoo.com](mailto:bindihar@yahoo.com); [tomaszj02@gmail.com](mailto:tomaszj02@gmail.com); [dszjones@gmail.com](mailto:dszjones@gmail.com); [gjurica@pencoeng.com](mailto:gjurica@pencoeng.com); [nkemper@umich.edu](mailto:nkemper@umich.edu); [peking@hawaii.rr.com](mailto:peking@hawaii.rr.com); [dlaframboise@san.rr.com](mailto:dlaframboise@san.rr.com); [paul@aplabs.com](mailto:paul@aplabs.com); [dlyonarch@adelphia.net](mailto:dlyonarch@adelphia.net); [m3mealey@san.rr.com](mailto:m3mealey@san.rr.com); [ricmor@cox.net](mailto:ricmor@cox.net); [neilnevada@gmail.com](mailto:neilnevada@gmail.com); [djpaul\\_1@mac.com](mailto:djpaul_1@mac.com); [richardarupp@yahoo.com](mailto:richardarupp@yahoo.com); [cmcsjs@amafrog.com](mailto:cmcsjs@amafrog.com); [curtissathre@cox.net](mailto:curtissathre@cox.net); [beverlyschuler@dslextrême.com](mailto:beverlyschuler@dslextrême.com); [dkschwan@cox.net](mailto:dkschwan@cox.net); [dstork@earthlink.net](mailto:dstork@earthlink.net); [gary.thimes@yahoo.com](mailto:gary.thimes@yahoo.com); [katie.thimes@yahoo.com](mailto:katie.thimes@yahoo.com); [stw@san.rr.com](mailto:stw@san.rr.com); [wertzmr@aol.com](mailto:wertzmr@aol.com); [louisschooler@gmail.com](mailto:louisschooler@gmail.com); [kjwright0719@gmail.com](mailto:kjwright0719@gmail.com); [ElvaRH@comcast.net](mailto:ElvaRH@comcast.net); [valindihar@yahoo.com](mailto:valindihar@yahoo.com); [runslowrunner@att.net](mailto:runslowrunner@att.net); [12eramirez12@cox.com](mailto:12eramirez12@cox.com); [joanrupp@gmail.com](mailto:joanrupp@gmail.com); [cris\\_sathre@yahoo.com](mailto:cris_sathre@yahoo.com); [pckitchenparamedic@cox.net](mailto:pckitchenparamedic@cox.net); [ktwertz@aol.com](mailto:ktwertz@aol.com);

[jagielinski@cumminsallison.com](mailto:jagielinski@cumminsallison.com); [dszjones@yahoo.com](mailto:dszjones@yahoo.com);  
[gjurica@pencoeng.com](mailto:gjurica@pencoeng.com); [kemper@hns.com](mailto:kemper@hns.com);  
[danl@dlwealth.com](mailto:danl@dlwealth.com); [lleccese@san.rr.com](mailto:lleccese@san.rr.com)

**Subject:** Rainbow Partners

Dear Investor,

I'm sending you this email to give you a progress report of the committee's activities.

On July 22, 2014, the Court filed an order to allow each General Partnership (GP) to file a single brief, not to exceed fifteen (15) pages, in response to the Court's decision to keep the GPs in the receivership. The Receiver was directed to disseminate this Order, and I attached it to my last email to you. I refer you to Pages 7 -10 of the order for the Conclusions of the Order.

Following the July 18 hearing, the committee rallied and contacted all 85 GPs to spur a vote by each GP to determine the official response of each GP to the Court's order. One investor from each GP requested a ballot through the GP Secretaries be sent to the folks in his or her GP. Ballots are now being returned to the Secretaries, and, if the emails I have received to date are any indication, the vote will be overwhelming YES to remove us from the receivership.

Understand, the Court Order is permitting a single brief from each GP giving the GP's official response to the Court's decision to keep the GPs in the receivership. Obviously, the vote will be the basis of the GP's official response. If the GP's majority response is YES, the brief will argue to remove itself from receivership; if the majority votes are NO, the brief will argue to stay in receivership. If an individual investor within a particular GP disagrees with his or her GP's official response, the individual's points of disagreement shall be included in a separate section of his or her GP's official response. In this case, a GP's brief may not exceed twenty (20) pages.

That brings us to the next step: I said in my last email that Greg Post, an attorney and investor in several of the GPs, has a draft brief that can be submitted in response to the Court's order. In discussing this at length, and with several attorneys close to the case, it was determined a single brief for all 85 GPs would not be allowed, and 85 copies of the same brief (one for each GP) would not be read by the Judge. Furthermore, there aren't 85 different arguments that can be made by September 12<sup>th</sup>. Therefore, we reasoned the submission of a smaller number of unique briefs on behalf of a number of the GPs will be sufficient, although briefs from a large number of GPs would be better – more on this below.

But will all the GPs be represented if only a limited number of briefs are submitted? We believe the answer is yes for two reasons:

1. In one way or another, the GP's vote to stay or not stay in receivership will be made known;
2. The Court Order stated the GPs can be heard in open court



WITH OR WITHOUT FILING A BRIEF. Therefore, if a GP does not wish to file a brief, it can file a Notice of Intention to Appear at the hearing on October 10<sup>th</sup> and will be given up to fifteen (15) minutes to address the Court.

Therefore, the committee's thinking is this: we are working to have briefs filed on behalf of at least a few GPs, AND WE WOULD LIKE TO HAVE EVERY ONE OF THE 85 GPs MAKE a 15 MINUTE PRESENTATION at the October 10, 2014 court hearing. Yes, we want an overwhelming show of force at the hearing, to match the overwhelming vote we believe is coming by August 31. We believe it will make the Court take notice even if a brief is not filed in every case. And we plan to have the news press present at the hearing as witness to the event.

So, the committee is asking the GPs to do the following:

- 1) Decide if any investor in your GP is willing to speak forcefully for your GP at the hearing on October 10, 2014.
  - I will find out if there is a special form needed to file a Notice of Intention to Appear and forward it to that person;
- 2) Decide if any investor in your GP wishes to file a brief in support of your GP's vote.
  - **NOTE:** the Court Order did not say the brief must be filed by an attorney, and, through consultation with lawyers familiar with the case, we understand a lay person can, in fact, write a brief for his or her GP. So, Greg Post will file a few briefs for a small number of GPs, but we hope many of the GPs will file their own briefs – presenting, at least, the results of their vote to the Court. Are there any good writers in your GP that can produce and file a brief by September 12<sup>th</sup>?
  - I will find out how soon each GP can know the result of its vote from the GP Secretaries. I will also attempt to obtain a template for the brief which you can use. You can also go to [www.secvsschooler.com](http://www.secvsschooler.com) for examples right now.
- 3) Forward the names of the people identified in 1 and 2 above, so I can keep track of which GPs wish to be heard in open court and which plan to file a brief BY SEPTEMBER 12<sup>TH</sup>.

Fellow investors, this is a David and Goliath story if there ever was one, and we are marshaling our forces in a way the Court and SEC did not think was possible - after all, we are just simple investors in raw plots of dirt, and, according to them, we can't do anything without a nanny. But, we are doing it, in large part, without lawyers.

We can do this folks, but time is ticking away and we have only 25 days

left to file briefs and file Notices of Intention to Appear! Please act quickly!

Dennis P. Gilman, Ph.D.

Investor: Lyons Valley, Honey Springs, VIA 188 Checkered Flags

## **EXHIBIT D**

**From:** [Karen Miller](#)  
**To:** [Kalin, Sara](#)  
**Subject:** Fwd: Rainbow Partners re GPs in Receivership  
**Date:** Wednesday, September 24, 2014 10:04:17 AM  
**Attachments:** [rainbow retention of GP in Receivership.pages.zip](#)

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Begin forwarded message:

**From:** MILLER KAREN <[runslowrunner@att.net](mailto:runslowrunner@att.net)>  
**Subject:** Rainbow Partners re GPs in Receivership  
**Date:** August 28, 2014 at 2:28:58 PM PDT  
**To:** Beverly Schuler <[bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)>  
**Cc:** [DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)

Dear Beverly

We understand from the recent Order of the Court that a hearing has been scheduled in October on the above subject, for which the Court has specified briefs from the GPs regarding the opinion of the GPs on this issue. We further understand that should an investor in a GP have a different opinion than the majority opinion of his partners, that investor may prepare his own position statement which must be included with the partnership's brief.

Obviously the balloting process among the investors in Rainbow Partners is open until August 31, 2014 so the majority opinion is not yet known.

Notwithstanding the foregoing, I have prepared a position statement which represents my opinion. When I returned my ballots to you, I stated it is my desire for the partnership to remain in the Receivership.

Attached is my statement for inclusion in the partnership brief to the court: if the majority votes for removal, it will be a dissenting opinion. If the majority votes for remaining in the Receivership, it will be a supporting document.

I assume you will be providing a copy of the partnership's brief to all investors. I would also appreciate a tally of the ballots when the voting is complete.

Jim Miller

## **EXHIBIT E**



August 28, 2014

Case No. 3:12-cv-2164-GPC-JMA  
Securities and Exchange Commission v. Louis V. Schooler  
and First Financial Planning Corporation  
dba Western Financial Planning Corporation

Re: Rainbow Partners: Removal of General Partnerships from Receivership

Dear Partners:

I am unaware at this time what the results of the recent ballot on this subject have concluded about the overall opinion of the partners.

I have two investments in Rainbow Partners, thus I assume I have the equivalent of two votes on the subject (as demonstrated by previously submitted ballots on this subject). I therefore assume my opinion in this informal brief carries the weight of two "investors".

**I specifically oppose the removal of our general partnership from the Receivership.**

I have read nearly all of the court documents in the subject litigation.

In the 8/16/13 Order of the Court releasing the GPs from the Receivership, *subject to conditions*, the Court stated that it believes that the investors do not fully understand the ramifications of the release. He ordered a comprehensive information packet to be prepared for investors which included a number of items of critical importance in our decision making. I do not believe an informed decision is possible without reviewing the Court's list as presented in the subject Order:

1. Explanation of what a general partnership is
2. Legal relationship between Western and the GPs including its' equity in the GPs and an explanation of any debts owed by the GPs to Western
3. Legal relationship amongst the GPs themselves within the co-tenancy agreements including requirements for decision making on behalf of an entire co-tenancy
4. Tasks performed by Western personnel on behalf of the GPs
5. Operations and responsibilities the investors will undertake once the GPs are released from the Receivership, including the responsibility to monitor the mortgages on their respective properties (where they exist) and to pay mortgages to the extent Western has insufficient cash to make such payments.
6. Option of retaining or terminating the GPs current partnership administrators including the need to be in direct contact with the administrators if investors continue to utilize their services on an independent contractor basis, the cost of retaining the administrators, and the necessary steps for terminating the administrators.
7. Legal effect of being released from the Receivership including the lifting of litigation injunction, the ability to pursue individual claims for damages on behalf o the GPs, the possibility that Western will engage in collection efforts against the GPs for

payment of any outstanding debts, and the effect of investors' rights to recover from the Receivership estate

8. The Court's conditions for the release of the GPs from the Receivership
9. A recommendation to seek out the advice of independent counsel to the extent investors do not understand the legal effect of being released from the Receivership

In addition to the foregoing crucial legal ramifications of release, the Court ordered to be included:

1. The SECs allegations
2. The Receiver's findings to date, including
  1. the original purchase prices of the GP properties
  2. funds raised by Western from the GPs
  3. how the difference between the purchase prices and the money raised was spent by Western
  4. Results of the appraisals on the GP properties

*\*you are directed to the full text of the order available on the Receiver's website:*

*<http://www.ethreeadvisors.com/cases/sec-v-louis-v-schooler-and-first-financial-planning-corp-dba-western-financial-planning-corp/>*

The issue of the dependence of the GPs on Western Financial for management has been enumerated in many court documents. The Court has expressed the opinion that the operations of the GPs are not limited to simple administrative tasks, but rather encompass extensive management duties. When Western was put into Receivership, those functions were handled by the Receivership, for example the payment of mortgages.

If the GPs are released from the Receivership, all the management functions not handled by the Receiver will have to be assumed. To date, I am unaware that any individual or group of individuals is ready to take this on. Furthermore, it appears that cash is not available to employ an administrator or management or for the payment of rent, office supplies, utilities, etc. I am sure I am not alone in stating that I have no desire to participate in additional expenses for the GP when I have no reason to believe that I will see any appreciation on my investment and possibly will lose my entire investment. The operational expenses as they are now constructed are burden enough. and we can look forward to another five years before the partnership expires.

Western is the defendant. Western is responsible for the need for a Receivership. Western is paying for the Receivership. Our interests under the Receivership are secured by a Federal Court and its representative, the Receiver. The Court is ruled by law which is impartial. The Receiver cannot act without the direct order of the Court, so his activities are secured by the Court. As are ours.

We need to protect ourselves from any additional exposure to costs or liabilities. I believe our interests are best served by remaining in the Receivership.



We need to focus on the source of our problems, what brought us to this place: the questionable actions of Western. They will have their day in court to defend themselves and they are entitled to full adjudication. In the mean time, we have to protect ourselves.

I understand that this statement will be included with the brief submitted to the Court prior to the October hearing.

respectfully submitted, your partner

James R. Miller  
James R. Miller, IRA

## **EXHIBIT F**

**From:** Karen Miller  
**To:** Kalin, Sara  
**Subject:** email schuler to gilman and post  
**Date:** Wednesday, September 24, 2014 10:21:47 AM  
**Attachments:** [rainbow retention of GP in Receivership.pages.zip](#)

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Begin forwarded message:

**From:** "Beverly Schuler" <[bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)>  
**Subject:** FW: Rainbow Partners re GPs in Receivership  
**Date:** August 28, 2014 at 2:32:13 PM PDT  
**To:** "Dennis Gilman" <[DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)>, "gregory post" <[gmpost6@gmail.com](mailto:gmpost6@gmail.com)>  
**Cc:** <[runslowrunner@att.net](mailto:runslowrunner@att.net)>

Greg & Dennis,

I believe you can/are handling this.

Thanks,

Bev & Alice

Beverly Schuler  
email: [bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)  
Alice Jacobson  
email: [alice@wcas.sdcoxmail.com](mailto:alice@wcas.sdcoxmail.com)  
FAX: (760) 295-4632  
West Coast Administrative Services  
270 N. El Camino Real #F533  
Encinitas, CA 92024

-----Original Message-----

From: MILLER KAREN [<mailto:runslowrunner@att.net>]  
Sent: Thursday, August 28, 2014 2:29 PM  
To: Beverly Schuler  
Cc: [DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)  
Subject: Rainbow Partners re GPs in Receivership

Dear Beverly

We understand from the recent Order of the Court that a hearing has been scheduled in October on the above subject, for which the Court has

specified  
briefs from the GPs regarding the opinion of the GPs on this issue. We  
further understand that should an investor in a GP have a different  
opinion  
than the majority opinion of his partners, that investor may prepare his  
own  
position statement which must be included with the partnership's brief.

Obviously the balloting process among the investors in Rainbow Partners  
is  
open until August 31, 2014 so the majority opinion is not yet known.  
Notwithstanding the foregoing, I have prepared a position statement  
which  
represents my opinion. When I returned my ballots to you, I stated it is  
my  
desire for the partnership to remain in the Receivership.

Attached is my statement for inclusion in the partnership brief to the  
court: if the majority votes for removal, it will be a dissenting opinion.  
If the majority votes for remaining in the Receivership, it will be a  
supporting document.

I assume you will be providing a copy of the partnership's brief to all  
investors. I would also appreciate a tally of the ballots when the voting  
is complete.

Jim Miller

## **EXHIBIT G**

**From:** Karen Miller  
**To:** Kalin, Sara  
**Subject:** Gilman's email of 8/29/14  
**Date:** Wednesday, September 24, 2014 12:09:35 PM

---

Begin forwarded message:

**From:** Dennis Gilman <DPGilman@clindm-llc.com>  
**Subject:** RE: Rainbow Partners  
**Date:** August 29, 2014 at 11:33:13 AM PDT  
**To:** "dbaldwi3@san.rr.com" <dbaldwi3@san.rr.com>, "caldwellcw@hotmail.com" <caldwellcw@hotmail.com>, "john-chau@hotmail.com" <john-chau@hotmail.com>, "cindy.dorney@gmail.com" <cindy.dorney@gmail.com>, "Rick.LaLuna@comcast.net" <Rick.LaLuna@comcast.net>, "pjharrison@cox.net" <pjharrison@cox.net>, "bobmectec@aol.com" <bobmectec@aol.com>, "davidlhyde@sbcglobal.net" <davidlhyde@sbcglobal.net>, "bindihar@yahoo.com" <bindihar@yahoo.com>, "tomaszj02@gmail.com" <tomaszj02@gmail.com>, "dszjones@gmail.com" <dszjones@gmail.com>, "gjurica@pencoeng.com" <gjurica@pencoeng.com>, "nkemper@umich.edu" <nkemper@umich.edu>, "peking@hawaii.rr.com" <peking@hawaii.rr.com>, "dlaframboise@san.rr.com" <dlaframboise@san.rr.com>, "paul@aplabs.com" <paul@aplabs.com>, "dlyonarch@adelphia.net" <dlyonarch@adelphia.net>, "m3mealey@san.rr.com" <m3mealey@san.rr.com>, "ricmor@cox.net" <ricmor@cox.net>, "neilnevada@gmail.com" <neilnevada@gmail.com>, "djipaul\_1@mac.com" <djipaul\_1@mac.com>, "richardarupp@yahoo.com" <richardarupp@yahoo.com>, "cmscjs@amafrog.com" <cmscjs@amafrog.com>, "curtissathre@cox.net" <curtissathre@cox.net>, "beverlyschuler@dslextre.me.com" <beverlyschuler@dslextre.me.com>, "dkschwan@cox.net" <dkschwan@cox.net>, "dstork@earthlink.net" <dstork@earthlink.net>, "gary.thimes@yahoo.com" <gary.thimes@yahoo.com>, "katie.thimes@yahoo.com" <katie.thimes@yahoo.com>, "stw@san.rr.com" <stw@san.rr.com>, "wertzmr@aol.com" <wertzmr@aol.com>, "louisschooler@gmail.com" <louisschooler@gmail.com>, "kjwright0719@gmail.com" <kjwright0719@gmail.com>, "ElvaRH@comcast.net" <ElvaRH@comcast.net>, "valindihar@yahoo.com" <valindihar@yahoo.com>, "runslowrunner@att.net" <runslowrunner@att.net>, "12eramirez12@cox.com" <12eramirez12@cox.com>, "joanrupp@gmail.com" <joanrupp@gmail.com>, "cris\_sathre@yahoo.com"



<cris\_sathre@yahoo.com>, "pckitchenparamedic@cox.net"  
<pckitchenparamedic@cox.net>, "ktwertz@aol.com" <ktwertz@aol.com>,  
"jagielinskit@cumminsallison.com" <jagielinskit@cumminsallison.com>,  
"dszjones@yahoo.com" <dszjones@yahoo.com>,  
"gjurica@pencoeng.com" <gjurica@pencoeng.com>, "kemper@hns.com"  
<kemper@hns.com>, "danl@dlwealth.com" <danl@dlwealth.com>,  
"lleccese@san.rr.com" <lleccese@san.rr.com>

Dear Investor,

Many of you have sent emails asking what will the GPs do after we are out of receivership. How will we find a management group to handle our affairs? Are we stuck with Western as our management group?

Let me begin by saying Western (or Schooler, for that matter) has no control or influence over our GPs. The affairs of our partnerships are handled by only two people: Alice Jacobson and Beverly Schuler. They have been handling the administrative duties for our properties for many, many years now, and they have been completely divorced from Western for over three years – before the SEC chose to file suit against Schooler and Western. They work for the 85 GPs on a contractual basis.

So, the 85 GPs have the management group needed to move forward. Our "Administrators," Alice and Beverly, will continue taking care of our affairs, and I, for one, am thankful they have agreed to stay on to tend to our responsibilities. Without them, we would be completely lost. Do any of you know how to file our taxes, handle operational expenses, handle IRA investment authorizations, etc.? I have gotten to know these two ladies, and can attest to their professionalism, dedication and fortitude. Like us, they have ownership in several of the properties, and they are not willing to let the Receiver run roughshod over the properties without a fight.

Now, it will be the case that once we are out from under the Receiver, each GP will need to wake up and decide what it wants to do going forward; i.e., find the appropriate Real Estate Firm to determine the realistic value of its property, decide if it wants to list the property on the market, etc. – for all of which Alice and Beverly will provide assistance. I will work to do these things for my partnerships (Lyons Valley, Honey Springs, VIA 188 and Checkered Flag), but I won't be available to work for your partnerships. You, the partners, will need to wake from your slumber, review the original documentation for your GP, communicate amongst yourselves, and direct Alice and Beverly as to what you want to do (e.g., sell, stay pat, etc.).

So, rest assured we are in very capable hands at the present time and in the immediate future. Below are a list of duties Alice and Beverly are responsible for and have been doing for many years for the partnerships:



- Set up all address changes, re-record the Partnership papers because of name changes due to divorce, deaths, Trusts that are being set up, etc.;
- Pay the Property Taxes, prepare paperwork for the CPA's and Bookkeepers for the year-end Tax Returns and K-1's;
- Handle calls from Partners regarding their payments, balances and progress of the Partnership;
- When there is a prospective buyer for the property, the Administrators handle all the correspondence, send out Ballots to the Partners for Voting to sell or not, work with the Escrow Company and any other sales related items;
- During the course of the Partnership, if there is a need to Ballot the Partnership on any matter the Administrators take care of that balloting and recording of the outcome of the vote;
- Handle all of the IRA investment authorizations for the operational monies that come in for an IRA investment;
- Do all the Operational billings for every partnership. Do all the accounting of the Partnerships' expenses in order to put together the billing and request the dollars;
- Receive and enter all payments into the Partnerships books;
- Provide Partners with information and details about their investment checking accounts, income, and expenses;
- Put together liquidation packets and send it to the person interested in relinquishing their units;
- Keep track of the late payers and of those that are not making their operational payments.

Dennis P. Gilman

## **EXHIBIT H**

**From:** Karen Miller  
**To:** Kalin, Sara  
**Subject:** Gilman's 9/2/14  
**Date:** Wednesday, September 24, 2014 12:10:27 PM  
**Attachments:** 1Due Process Brief for Non-Atty (2).doc  
2NOTICE TO APPEAR TO SPEAK (2).doc

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Begin forwarded message:

**From:** Dennis Gilman <DPGilman@clindm-llc.com>  
**Subject:** RE: Rainbow Partners  
**Date:** September 2, 2014 at 4:45:46 PM PDT  
**To:** "dbaldwi3@san.rr.com" <dbaldwi3@san.rr.com>, "caldwellcw@hotmail.com" <caldwellcw@hotmail.com>, "john-chau@hotmail.com" <john-chau@hotmail.com>, "cindy.dorney@gmail.com" <cindy.dorney@gmail.com>, "Rick.LaLuna@comcast.net" <Rick.LaLuna@comcast.net>, "pjharrison@cox.net" <pjharrison@cox.net>, "bobmectec@aol.com" <bobmectec@aol.com>, "davidlhyde@sbcglobal.net" <davidlhyde@sbcglobal.net>, "bindihar@yahoo.com" <bindihar@yahoo.com>, "tomaszj02@gmail.com" <tomaszj02@gmail.com>, "dszjones@gmail.com" <dszjones@gmail.com>, "gjurica@pencoeng.com" <gjurica@pencoeng.com>, "nkemper@umich.edu" <nkemper@umich.edu>, "peking@hawaii.rr.com" <peking@hawaii.rr.com>, "dlaframboise@san.rr.com" <dlaframboise@san.rr.com>, "paul@aplabs.com" <paul@aplabs.com>, "dlyonarch@adelphia.net" <dlyonarch@adelphia.net>, "m3mealey@san.rr.com" <m3mealey@san.rr.com>, "ricmor@cox.net" <ricmor@cox.net>, "neilnevada@gmail.com" <neilnevada@gmail.com>, "dj paul\_1@mac.com" <dj paul\_1@mac.com>, "richardarupp@yahoo.com" <richardarupp@yahoo.com>, "cmcsjs@amafrog.com" <cmcsjs@amafrog.com>, "curtissathre@cox.net" <curtissathre@cox.net>, "beverlyschuler@dslextreame.com" <beverlyschuler@dslextreame.com>, "dkschwan@cox.net" <dkschwan@cox.net>, "dstork@earthlink.net" <dstork@earthlink.net>, "gary.thimes@yahoo.com" <gary.thimes@yahoo.com>, "katie.thimes@yahoo.com" <katie.thimes@yahoo.com>, "stw@san.rr.com" <stw@san.rr.com>, "wertzmr@aol.com" <wertzmr@aol.com>, "louisschooler@gmail.com" <louisschooler@gmail.com>, "kjiwright0719@gmail.com" <kjiwright0719@gmail.com>, "ElvaRH@comcast.net" <ElvaRH@comcast.net>, "valindihar@yahoo.com" <valindihar@yahoo.com>, "runslowrunner@att.net" <runslowrunner@att.net>, "12eramirez12@cox.com" <12eramirez12@cox.com>, "joanrupp@gmail.com"

<joanrupp@gmail.com>, "cris\_sathre@yahoo.com"  
<cris\_sathre@yahoo.com>, "pckitchenparamedic@cox.net"  
<pckitchenparamedic@cox.net>, "ktwertz@aol.com" <ktwertz@aol.com>,  
"jagielinskit@cumminsallison.com" <jagielinskit@cumminsallison.com>,  
"dszjones@yahoo.com" <dszjones@yahoo.com>,  
"gjurica@pencoeng.com" <gjurica@pencoeng.com>, "kemper@hns.com"  
<kemper@hns.com>, "danl@dlwealth.com" <danl@dlwealth.com>,  
"lleccese@san.rr.com" <lleccese@san.rr.com>

Dear Investor:

This email is a bit long, and there are many parts to it - so please be patient as you work through the various parts. As promised, this email gives you a sample brief which can be filed out on behalf of your GP, and a template of an Intent to Appear if your GP does not want to file a brief. For each document, you will find the specific instructions at the end of this email.

First, some review:

- the Court Order of July 22, 2014, specifically stated each GP may file a single brief, not to exceed 15 pages, in response to the Court's decision to keep the GPs in receivership;
- the brief, as described in the Court Order, will be the GP's "official response;"
- but, the brief can include a separate section with points of disagreement if anyone in the GP wants to voice his/her dissension with the GP's "official response;"
- in addition, the GP may file a Notice of Intention to Appear at the October 10, 2014 if the GP does not wish to file a brief.

Now, what is the GP's official response? The Court's order did not specifically define the "official response," other than to state it was to be a response to the Court's decision to keep the GPs in receivership. And the Receiver, in his email to you on or around August 4<sup>th</sup>, only said the individual investor was to "Please read and consider the Order carefully." Our rational has been that the official



response of each GP can only be learned through a vote of the investors in each GP, and that has been exactly what we have been working to achieve, as you know.

So where are we? At this time, the ballots are being collected and tallied for each GP, and we hope to have the results to you this week, or very early next week at the latest. This now presents us with a problem as follows:

The first document attached is the Due Process Brief tailored for the non-attorney. Please note as you read it that it is written assuming your GP voted in the affirmative (YES) to remove the Receiver. But - and here is the difficult aspect we are dealing with - you are not going to know how your GP voted until later this week or next. So, how should the draft brief be treated? All indications from the many emails I have received from the investors is that the partnerships are voting positively to remove the Receiver from control of our properties - I understand there are relatively few NO votes; therefore, the brief has been written from the positive perspective to remove the Receiver. If your GP votes in the negative (to keep the Receiver in control of your GP), the brief must to be rewritten from the point of view to agree with the Court and keep the Receiver in Control of your GP. In either case, we are not going to know the "official response" of your GP until later this week or next.

So, whoever files the brief for his/her GP must wait for the official response, as determined by the GP's vote. If the vote of his/her GP is positive to remove the Receiver, the draft brief is ready as is, or can be modified further and submitted. If there is disagreement in your GP, the voices of disagreement must submit their "points of disagreement" in a separate section of the official brief. A separate brief - according to the Court Order of July 22<sup>nd</sup> - is not permitted.

Now, who is to file the brief? I can only help you with this in the following manner: the committee is compiling names from each GP who have stepped forward and have stated they want to submit a brief on behalf of their GP. The members of the committee itself

have all agreed to represent their GPs, so the GPs listed below are covered by the committee members. We hope to have names for the rest of the properties this week, and I will contact these people – they, hopefully, will contact you.

Also, please note the attached brief is written for the non-attorney – in that it contains no citations of case law. Therefore, if there are any lawyers out there who can put together a brief for their GP, please let us know. Time is very short and you are going to have to act on your own very quickly, if you want to do this. The attorney, Greg Post, will file briefs on behalf of one or more of his GPs from the attorney perspective.

Remember, a GP does not necessarily need to file a brief. The Court Order of July 22<sup>nd</sup> made it clear a GP could be heard in open court at the October 10<sup>th</sup> hearing without filing a brief, by filing a Notice of Intention to Appear at the hearing. The second attached template allows you to do this. Again, the committee members have volunteered to appear on behalf of their GPs, and we are compiling names of others who have said they will speak for their GPs.

The advantage of filing an Intent to Appear without filing a brief is obvious in that you have time to learn of your GPs vote and put together a short talk – not to exceed 15 minutes according to the Court Order – prior to October 10<sup>th</sup>. But whether you file a brief or only an Intent to Appear, **you must be absolutely be sure you will appear on the appointed court date of October 10, 2014.**

In conclusion, I know many of you will want to send emails with many questions. I, however, apologize to you in advance for not responding to very many of them. We have done the best we can with the short time the Court has given us, and I'm sure there would have been other ways of tackling the issue of the Receiver if we had had more time. We have done what we can given the resources we have at our disposal.

Sincerely,

Dennis P. Gilman

**The Committee proposes to represent the following properties:**

Dennis Gilman: Lyons Valley, Honey Springs, VIA 188, Checkered  
Flags;

Bill Loeber: Big Ranch, Hidden Hills;

Elena Luz Gomez: Twin Plant, Sun-tec;

Chris Boore: Vista Del Sur, Pueblo, Pyramid Hwy 177, Falcon  
Heights, Silver City;

Gregory Post: Road Runners, Silver City;

Peter Kuilema: Night Hawk, Dayton View;

Bruce Case: Antelope Springs, Storey County, Rose Vista, Ocotillo  
View;

**Instructions for filing the attached Due Process Brief:**

The template attached is in Word and is on paper numbered down  
the left side. This numbered paper is already a part of the Word  
document and will print out with the notice after it is completed.



This numbered paper MUST be used when submitting documents to the Court.

Step 1: Please make the following modifications to make the brief your personal brief.

Page 1

Line 1: Delete "John Q. Investor" and insert your name.

Line 2: Delete "123 Anywhere" and "San Diego, CA 92101" and insert your street address, your city, state, and zip.

Line 3: Delete the phone "619-555-1212" and insert your phone number.

Line 6: Insert the name of your partnership.

Line 11: Insert the name of your partnership.

Page 2

Line 1: Insert the name of your partnership.

Line 8: Insert your name and the name of your partnership.

Line 10: Insert the name of your partnership.

Page 8

Line 28: Insert the name of your partnership.

Page 9

Line 3: Delete "9/10/14" and insert the date you are signing the brief and then sign it. (Note: you need to have the brief filed before 9/10/14, so you need to mail it in several days earlier to allow enough time for it to arrive before the deadline.)

Line 5: Delete "John Q. Investor" and insert your name.

Line 6: Delete "123 Anywhere" and insert your street address.

Line 7: Delete "San Diego, CA 92101" and insert your city, state, and zip.

Line 8: Delete "619-555-1212" and insert your phone number.

Line 9: Insert the name of your partnership.

**If you wish to move sections around, be sure to move the sections that begin with bold print and the underlying paragraph(s). Also, if you want to add your own point(s), be sure to highlight in bold print your point and then follow up with a paragraph detailing your**

position following the same format used in presenting each point already set out in the brief.

Be sure, however, the brief does not exceed 15 pages, or it will be rejected.

If you are an investor in more than one partnership and will be filing a brief for more than one partnership, please file a separate brief for each partnership you will be speaking for and filing a brief. This will require you to make the changes above tailored to each brief you file.

SEND IN A SEPARATE NOTICE AND BRIEF FOR **EACH** PARTNERSHIP FOR WHICH YOU WILL BE SPEAKING AND FILING A BRIEF.

Step 2: After making a copy for your files, you, the Investor, needs to send the "original" completed Notice and brief by US first class mail, to:

OFFICE OF THE CLERK  
US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
333 WEST BROADWAY, SUITE 420  
SAN DIEGO, CA 92101-8900

This Notice should be mailed several days prior to September 10, 2014 to be certain that it arrives before September 12, 2014.

If you have any problems with the template, please contact Dennis Gilman by email, and he will ask Mr. Post to contact you directly.

**Instructions for filing a the attached Notice to Appear to Speak:**

If you are the Investor who has agreed only to **speak** to the Court on behalf of your partnership, but will not be filing a brief, this is the template you should use to submit your notice of intent to speak.

The template attached is in Word and is on paper numbered down the left side. This numbered paper is already a part of the Word document and will print out with the notice after it is completed. This numbered paper **MUST** be used when submitting documents to the Court.

Step 1: Investor deletes "John Q. Investor" and inserts his/her own name.

Step 2: Investor deletes "123 Any Place, San Diego, CA 92101, Tel. (619) 555-1212" and inserts his/her own address and phone number.

Step 3: Investor inserts the name of only ONE of his/her general partnerships. If he/she has more than one general partnership investments, and he/she will be speaking for more than one general partnership, he/she needs to **SEND IN A SEPARATE NOTICE FOR EACH PARTNERSHIP FOR WHICH HE/SHE WILL BE SPEAKING.**

Step 4: Investor inserts the name of the general partnership in the line that reads "NOTICE OF \_\_\_\_\_ PARTNERS OF" across from the number 10 on page 1.

Step 5: Investor inserts the name of the general partnership in the line that reads "on behalf of \_\_\_\_\_ Partners" across from the number 1 on page 2.

Step 6: Investor inserts the name of the general partnership in the space in the sentence that continues next to the number 2 on page 2.

Step 7: Investor inserts the name of the general partnership in the space in the sentence across from the number 4 on page 2.

Step 8: Investor inserts the date he/she is submitting the notice across from the number 6 on page 2. (Note: this notice must reach the court **BEFORE** September 12, 2014).

Step 9: Investor signs the notice on the blank line appearing above his/her name across from the number 8 on page 2.

Step 10: Investor replaces "John Q. Investor, 123 Any Place, San Diego, CA 92101, Tel. (619) 555-1212" with his/her name, address

and phone number on page 2.

Step 11: Investor inserts the name of his/her general partnership on the blank line in front of the word "Partners" across from the number 12 on page 2.

Step 12: After making a copy for his/her files, Investor sends the original completed Notice by US first class mail, to:

OFFICE OF THE CLERK  
US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
333 WEST BROADWAY, SUITE 420  
SAN DIEGO, CA 92101-8900

This Notice should be mailed several days prior to September 12, 2014 to be certain that it arrives before September 12, 2014.

If you have any problems with the template, please contact Dennis Gilman by email, and he will ask Mr. Post to contact you directly.

## **EXHIBIT I**



1 John Q. Investor  
2 123 Any Place  
3 San Diego, CA 92101  
4 Tel. (619) 555-1212

5 In Pro Per  
6 General Partner  
7 \_\_\_\_\_ Partners

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

10 SECURITIES AND EXCHANGE  
11 COMMISSION,

12 Plaintiff,

13 v.

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

19 Defendants.

Case No. 12 CV 2164 GPC JMA

**BRIEF OF \_\_\_\_\_ PARTNERS IN  
SUPPORT OF MODIFICATION OF  
THE PRELIMINARY INJUNCTION  
ORDER TO REMOVE THE REAL  
ESTATE GENERAL PARTNERSHIPS  
FROM THE RECEIVERSHIP**

**Date: October 10, 2014**

**Time: 1:30 p.m.**

**Courtroom: 2D**

**Judge: Hon. Gonzalo P. Curiel**

**ORAL ARGUMENT REQUESTED**



1 \_\_\_\_\_ Partners hereby submits the following brief in favor of removing the  
2 Court-appointed receivership over them and the other real estate general  
3 partnerships (“GPs”) established by First Financial Planning Corporation d/b/a  
4 Western Financial Planning Corporation (“Western”) and Louis V. Schooler  
5 (collectively, “Defendants”), as authorized by the Court in its July 22, 2014 order  
6 reconsidering its earlier order of August 16, 2013 (Dkt. No. 629; hereafter  
7 “Reconsideration Order”).

8 \_\_\_\_\_, on behalf of \_\_\_\_\_ Partners, requests to be heard in  
9 open court at the hearing scheduled for October 10, 2014, and speak on behalf of  
10 \_\_\_\_\_ Partners for fifteen (15) minutes.

11 **I.**

12 **ARGUMENT**

13 The receivership in this matter should be modified to exclude the GPs. By  
14 virtue of the express language of the Partnership Agreements and Partners’  
15 Representations executed by the investor-partners, the GPs are independent entities,  
16 completely separate from the Defendants in this litigation. Defendants have no  
17 control whatsoever over the GPs, because they cannot vote or nullify a vote. The  
18 GPs are perfectly capable of managing their properties and selling them for a profit.  
19 Whether Defendants are found liable for any violation of federal securities law is  
20 irrelevant to the issue of whether the GPs should remain in the receivership. While  
21 the Receiver and the SEC purport to act in the best interests of the GPs, they have  
22 failed to take adequate steps to determine what the interests of the investors are, and  
23 instead have made inaccurate factual representations to the Court regarding the  
24 powers and abilities of the investors to run their GPs and sell their property. Even  
25 though the investors are adults extremely capable of making their own decisions  
26 about their investments, the SEC and Receiver treat them like children.

27 ///

28 ///

**A. The Hearing for the GPs Improperly Allows the GPs to be Heard Only after they are Placed in Receivership**

When the SEC first filed suit, it promised the Court that the GPs would be heard before they were placed in receivership. However, it has now been two years since the GPs were placed in receivership, and only now are they being provided a hearing, during which time the Receiver has had exclusive control of their property. The GPs have never been asked whether they wanted to be in the receivership in the first place.

This hearing is not true “due process” for the GPs because the hearing should have been provided in the very beginning, before the Court took control of the GPs away from their investors and vested it in a receiver over whom the investors had no say whatsoever.

**B. The SEC and Receiver Have Made Inaccurate Factual Representations and Omissions of Fact**

Prior to the July 18, 2014 hearing that led to the Reconsideration Order, Nancy Kemper, an investor in two co-tenants GPs (Horizon Partners and Rainbow Partners) holding title to a residentially-zoned parcel in Las Vegas, obtained an offer from CB Richard Ellis, one of America’s major real estate brokerages, to list the GPs’ jointly-owned parcel for sale at \$2.6 million, then circulated ballots to her fellow investors. Most of the investors in both partnerships voted to accept the brokerage’s offer to list the GPs’ jointly-owned parcel for sale. None of this was initiated, requested, or coordinated by Defendants.

Even though these investors were able to initiate and conduct a balloting process, the Receiver did not sign the listing agreement with CB Richard Ellis, and the Court disregarded the Horizon Partners’ and Rainbow Partners’ votes on the grounds that the Receiver’s counsel showed that “the listing price is...severely overinflated” based on an “erroneous assumption that the property is zoned for commercial, as opposed to residential, use” and because “the Receiver spoke with a



1 listing agent who...came up with a listing price that is based on the correct  
2 assumption that this property is zoned for residential use and that closely  
3 approximates the appraisal obtained by the Receiver.” Docket No. 629, 7:1-9.

4 The Receiver’s counsel made an inaccurate factual misrepresentation and an  
5 omission of fact to the Court that resulted in the Reconsideration Order. First, the  
6 listing price report submitted by CB Richard Ellis, which was filed with the Court,  
7 correctly listed the current zoning and explained how the property was worth \$2.6  
8 million based on the allowed uses for the zoning.

9 Second, the Receiver submitted no documentation to the Court explaining  
10 how the listing agent reached his/her determination, and in fact, the Receiver did not  
11 even identify the listing agent on the record or in any court filings. The Court did  
12 not ask for any documents from the Receiver’s broker or ask questions of the  
13 (unidentified) broker before issuing the Reconsideration Order. Several investors  
14 have since sent letters to the Receiver and the Court asking for the identity of the  
15 broker and the documents supporting that broker’s estimate of value.

16 More importantly, regardless of any appraised value, if the investors in a GP  
17 vote in favor of listing their land for sale, the GP’s partnership agreement directs  
18 that the proposed action be carried out. The Receiver had no right not to sign the  
19 listing agreement just because he disagreed with the majority vote.

20 Thus the Court’s decision in the Reconsideration Order was based on wholly  
21 unreliable statements while disregarding a detailed analysis of value that was in the  
22 record, and therefore was clear error.

23 **C. Defendants Have No Control over the GPs or the Investors; the**  
24 **Receiver Now Possesses More Power than Defendants Ever Did**

25 Throughout this entire case, ever since it began, the SEC and Receiver have  
26 claimed that Defendants “control” the GPs. But Defendants do not “control” the  
27 GPs – the GP investors, and only the investors, control the GPs. Each GP’s  
28 partnership agreement states that only the GP investor-partners control the GPs and

1 participate in the control, management, and direction of the GP. The investor-  
2 partners can initiate matters for consideration by the partnership, including the  
3 distribution of information and requesting a vote of the partnership. The investor-  
4 partners can vote to replace the Signatory Partner and Partnership Administrator if  
5 they wish, without having to provide a reason for replacing them.

6 Although Defendants can and do own equity interests in the GPs, the  
7 partnership agreements specifically provides that Defendants and their employees  
8 and agents cannot vote on any general partnership matters, including the sale of  
9 land. Thus Defendants, either on their own or by proxy, cannot vote on issues. Nor  
10 do Defendants possess any power to veto or refuse to honor a vote of the voting  
11 investors. Defendants share in the profits of the eventual resale of the raw land to  
12 developers, but they do not get to control when the land is to be sold, to whom, and  
13 for how much, because of their complete lack of control through voting.

14 Neither the Receiver nor the SEC can exercise rights concerning assets that  
15 Defendants do not own and do not control. Those assets belong solely to the  
16 investor-partners who are empowered to vote.

17 The GP investors, by virtue of retaining control by majority vote, are true  
18 general partners, not disguised limited partners. Yet, the imposition of the Receiver  
19 has stripped the investors of their powers. The investors had more ability to directly  
20 control, participate in, and influence their investment before the Receiver was  
21 imposed upon the GPs than they do now. By imposing the Receiver upon the GPs,  
22 the Court has turned the investors from general partners into limited partners  
23 dependent upon the whims of the Receiver's oversight, thereby creating a self-  
24 fulfilling prophecy.

25 Therefore, the Receiver must be removed from control of the GPs.

26 ///

27 ///

28 ///



**D. The Investors in the GPs Are Capable of Managing Their Partnerships and Property and Selling the Land for a Profit without the Receiver's Guidance or Control**

In the Reconsideration Order, the Court found that the GPs should remain in the receivership because of “day-to-day operations [that] are not as simple as the Court previously thought them to be,” such as Western buying out dissatisfied investors’ interests, Western loaning money to GPs for funding shortfalls, the presence of a water system on GPs’ property, and persons residing rent-free on GP property. Docket No. 629, 6:5-15.

However, these matters are nothing new – the SEC and Receiver previously raised them unsuccessfully in 2013 when they opposed Defendants’ motion to release the GPs from the receivership. The Receiver admitted that the “GPs may be able to hire somebody to perform some of these functions performed by Western (and possibly survive without others).” Docket No. 206 at 3. The GPs’ partnership agreements show that the investors have always had the authority to hire people to perform the management functions, because the investors (but not Schooler or Western) can vote to fire the partnership secretaries and hire new ones.

Therefore the Reconsideration Order is inappropriate because when the Court issued its order in 2013 to release the GPs from the receivership, the Court already knew what the GPs’ regular operations were. Nothing has truly changed that makes the continuation of an involuntary, unconsented receivership appropriate.

The investors include people from all walks of life who are fully capable of making sure property taxes and insurance are paid each year and that an accountant is engaged to prepare Form K-1’s. It’s no more complicated than when the investors pay their income taxes or the mortgage, property taxes and insurance on their own houses. The Court agreed when it issued the earlier order to release the GPs from the Receiver. The SEC and Receiver have not shown that the investors are incapable of performing those tasks.

1 Even for the handful of GPs that have residential tenants, a water system, or  
2 an eminent-domain lawsuit are present – and less than a dozen GPs have such issues  
3 - the investors can take action by voting on whether to have tenants reside on the  
4 premises, whether to hire someone to tend to the water system, whether to hire an  
5 attorney for the lawsuit, etc. If the tenants do not vacate the premises, the GP  
6 investors can vote to hire an attorney to bring an unlawful-detainer action against  
7 the tenants. The GP investors can vote to hire a manager to run the water system, or  
8 hire a lawyer to represent them in the eminent-domain lawsuit and ensure that they  
9 get as much money as possible from the government agency that plans to take their  
10 land for a road or a power plant. The SEC and Receiver have never provided any  
11 evidence that the investors are incapable of taking such action. And for the  
12 overwhelming majority of GPs that have neither a water system nor tenants, the  
13 operational requirements remain minimal: payment of taxes, insurance, and  
14 mortgages, and issuance of tax statements.

15 Receivers are usually appointed to operate or manage a business when the  
16 business is being so mismanaged that investors' funds are at risk of being lost.  
17 However, when the business at issue consists of a general partnership with very  
18 simple routine activity and an asset that sits there and appreciates in value as nearby  
19 land is developed, there's nothing to mismanage.

20 The SEC and Receiver claim that the land investments are somehow too  
21 complicated for the investors to run. But the SEC and Receiver continue to ignore  
22 that these investments are in raw land. *It's dirt.* There is no farming, ranching, or  
23 mining that takes place. There are no buildings to maintain, no rent to collect. The  
24 dirt sits there until such time as the surrounding area has developed, and then it  
25 becomes valuable to developers who want to put houses, or shopping centers, or  
26 industrial parks on it. The GPs are not established to develop their lands, and they  
27 don't develop them. That is left to the developers who eventually buy the land from  
28 the GPs.



1 Furthermore, the Co-Tenancy Agreements by which the GPs hold fractional  
 2 interests to their properties do not undercut the investors' ability to operate the GPs  
 3 and sell their property at a profit. The Co-Tenancy Agreement plainly and expressly  
 4 states that any individual partner in any of the co-tenant GPs can simply request a  
 5 ballot to be issued not only within his/her own GP, but for that ballot to also be  
 6 issued for a vote of all the members of all the other co-tenant GPs. Dkt. No. 210-1,  
 7 § 3.5.1. *Any individual investor has the ability to force a vote to be taken by*  
 8 *his/her GP and also all of the co-tenant GPs on any business matter relevant to*  
 9 *the GPs.*

10 It is actually a very simple process that gives each investor direct and  
 11 immediate ability to bring a matter of business to a full vote upon a mere request.  
 12 There is no requirement that a member's GP first vote on the issue of whether a  
 13 ballot request be sent to the other co-tenant GPs, and there is no requirement that  
 14 each GP's investors must unanimously vote a certain way; all that is needed is that *a*  
 15 *simple majority of the investors in each co-tenant GP* vote in favor of selling, etc.

16 Contrary to what the Court believes in the Reconsideration Order, the Co-  
 17 Tenancy Agreements do not require that "hundreds, if not thousands of investors,  
 18 would have to communicate and collaborate before a property may, for example, be  
 19 sold." Docket No. 629, 6:20-23. Instead, all it takes is one investor to request that  
 20 the co-tenant GPs be balloted, followed by the two GP secretaries distributing the  
 21 ballots to the investors, followed by the investors (on their own) voting. There is no  
 22 coordination necessary, and the investors are capable of doing this without guidance  
 23 or instruction by Defendants.

24 In the case of Rainbow Partners and Horizon Partners, Ms. Kemper located a  
 25 brokerage, obtained an offer to list, and then initiated the ballot process whereby the  
 26 investors in both co-tenant GPs were able to cast a vote on whether to list the  
 27 property with that brokerage. A majority of the investors in both GPs voted in favor  
 28 of listing their land for sale. Defendants had no involvement whatsoever with Ms.

1 Kemper's balloting, and it was only the Receiver's failure to sign the paperwork  
2 with the brokerage that has prevented the property from being listed for sale.

3 Neither the SEC nor the Receiver has provided any evidence showing that the  
4 GP investors are incapable of running their GPs, ensuring that the GP bills are paid,  
5 or deciding when to sell their land and for how much. Therefore, the receivership  
6 over the GPs should be lifted immediately.

7 **E. Whether Defendants Are Liable for Any Violations of Federal**  
8 **Securities Law is Irrelevant to Issue of Whether the GPs Should be**  
9 **in Receivership**

10 The Reconsideration Order is based on the Court's decision that the GP  
11 equity interests were securities. Docket No. 619, p. 5. The SEC and Receiver  
12 further argue that the GPs should be included in the receivership to protect them  
13 from Western's possible financial failure. However, as even the SEC  
14 acknowledges, "*the GPs are separate entities from Western.*"

15 The GPs have nothing to do with the lawsuit. The SEC has accused none of  
16 the GPs or investors of helping Schooler or Western hide money or commit fraud.  
17 No GP is named as a party, and no investor has been named either. Whether  
18 Defendants are found to have violated the law has nothing to do with whether the  
19 GPs own land, or whether the investors can run their GPs, protect their investments,  
20 and sell for a profit.

21 The underlying factors remain the same whether the Receiver is there or not,  
22 whether the SEC wins its lawsuit – when will someone want to buy the land from  
23 the GPs, and for how much? There is nothing that needs to be done to maintain title  
24 to the property and eventually sell to another party that the GP investors can't do on  
25 their own, without the Receiver.

26 **F. Statement the GP Wants to be Heard in Open Court at the October**  
27 **10, 2014 Hearing.**

28 The person submitting this brief wishes to be heard in open court at the

1 October 10, 2014 hearing.  
2

3 II.

4 CONCLUSION

5 \_\_\_\_\_ Partners respectfully request that this Court honor its partners'  
6 majority vote and modify the preliminary injunction order to be removed from the  
7 receivership.

8 DATE: September 10, 2014

Respectfully submitted,

9  
10 \_\_\_\_\_  
11 John Q. Investor  
12 123 Any Place  
13 San Diego, CA 92101  
14 Tel. (619) 555-1212  
15 In Pro Per General Partner,  
16 \_\_\_\_\_ Partners  
17  
18  
19  
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27  
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## **EXHIBIT J**



1 John Q. Investor  
2 123 Any Place  
3 San Diego, CA 92101  
4 Tel. (619) 555-1212

5 *In Pro Per*  
6 General Partner  
7 \_\_\_\_\_ Partners

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

10 SECURITIES AND EXCHANGE  
11 COMMISSION,

12 Plaintiff,

13 v.

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

19 Defendants.

Case No. 12 CV 2164 GPC JMA

**NOTICE OF \_\_\_\_\_ PARTNERS OF  
INTENTION TO APPEAR AT  
HEARING AND SPEAK IN SUPPORT  
OF MODIFICATION OF THE  
PRELIMINARY INJUNCTION  
ORDER TO REMOVE THE REAL  
ESTATE GENERAL PARTNERSHIPS  
FROM THE RECEIVERSHIP**

**Date: October 10, 2014**

**Time: 1:30 p.m.**

**Courtroom: 2D**

**Judge: Hon. Gonzalo P. Curiel**



1 John Q. Investor, on behalf of \_\_\_\_\_ Partners, hereby submits  
2 \_\_\_\_\_ Partners' Notice of Intention to Appear at the hearing scheduled for October  
3 10, 2014 and be heard in open court on the issue of remaining in the Court-ordered  
4 receivership, and requests fifteen (15) minutes to speak on behalf of \_\_\_\_\_  
5 Partners.

6 DATE: September 12, 2014

Respectfully submitted,

7  
8  
9 \_\_\_\_\_  
10 John Q. Investor  
11 123 Any Place  
12 San Diego, CA 92101  
13 Tel. (619) 555-1212  
14 In Pro Per General Partner,  
15 \_\_\_\_\_ Partners  
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## **EXHIBIT K**

**From:** Karen Miller  
**To:** Kalin, Sara  
**Subject:** balloting issue: emails with Beverly Schuler referencing Gilman  
**Date:** Wednesday, September 24, 2014 12:11:09 PM

---

Begin forwarded message:

**From:** MILLER KAREN <[runslowrunner@att.net](mailto:runslowrunner@att.net)>  
**Subject:** Re: Rainbow Partners  
**Date:** September 2, 2014 at 6:32:30 PM PDT  
**To:** Beverly Schuler <[bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)>

*granted, you may not know about "committee members" but...*

Mr. Gilman previously wrote to all investors regarding the removal of the receivership. In it he stated unequivocally that the tasks required by each GP can easily be handled by the Partnership Administrators (you and Alice) without the need for a Receiver. He set out in exquisite detail a list of your responsibilities, which he says you have been performing for years and which are no problem for you to continue once the Receiver is removed.

As the Partnership Administrator, you should be the one communicating with partners, soliciting and receiving ballots and being informed of the result of said ballot. And you did send out the ballots with a request for a return to you, so you must know the results. You should be the one who is in communication with an investor who intends to represent our interests.

It is not for Mr. Gilman to answer the questions I posed to you - YOU are the Partnership Administrator. If you do not know the answers to these questions and refuse to do anything but refer me (and perhaps others) to Mr. Gilman, you have **in effect** demonstrated that the investors' interests are not **in fact** being overseen by you in your capacity as Partnership Administrator and therefore have proven the case **against** the removal of the Receiver.

I will forward separately Mr. Gilman's email which lists the responsibilities of a Partnership Administrator.

Again, please respond.

Jim Miller

On Sep 2, 2014, at 5:20 PM, Beverly Schuler  
<[bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)> wrote:

Please address your questions to Mr. Gilman. I do not know anything about certain "Committee" members.

Beverly Schuler  
email: [bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)  
Alice Jacobson  
email: [alice@wcas.sdcoxmail.com](mailto:alice@wcas.sdcoxmail.com)  
FAX: (760) 295-4632  
West Coast Administrative Services  
270 N. El Camino Real #F533  
Encinitas, CA 92024

-----Original Message-----

From: MILLER KAREN [<mailto:runslowrunner@att.net>]  
Sent: Tuesday, September 02, 2014 5:20 PM  
To: Beverly Schuler  
Subject: Rainbow Partners

Dear Beverly

I received a lengthy email from Dennis Gilman today. In it he lists certain "committee" members who are formally representing the interests of certain GPs. No one is listed for Rainbow Partners/Horizon Partners.

Who is representing Rainbow Partners/Horizon Partners?

What is the result of the ballot for this partnership?

If Mr. Gilman is not representing Rainbow Partners, why did you forward to him my statement of opposition and ballot?

Obviously, time is of the essence so I would appreciate your response ASAP.

Thank you,

Jim Miller=

## EXHIBIT L



**Kalin, Sara**

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**From:** Karen Miller <[runslowrunner@att.net](mailto:runslowrunner@att.net)>  
**Sent:** Wednesday, September 24, 2014 12:14 PM  
**To:** Kalin, Sara  
**Subject:** gilman/schwander/miller 9/9/14 re ballot results

Begin forwarded message:

**From:** Dennis Gilman <[DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)>  
**Subject:** RE: Rainbow Partners  
**Date:** September 9, 2014 at 10:04:44 AM PDT  
**To:** MILLER KAREN <[runslowrunner@att.net](mailto:runslowrunner@att.net)>

I hope today, but no guarantee.

-----Original Message-----

From: MILLER KAREN [<mailto:runslowrunner@att.net>]  
Sent: Tuesday, September 09, 2014 8:05 AM  
To: Dennis Gilman  
Subject: Re: Rainbow Partners

We didn't receive our copy of the vote count. What is your ETA?

Jim Miller

On Sep 5, 2014, at 6:23 PM, Dennis Gilman <[DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)> wrote:

I hope to have the counts to you on Monday.

Sent from my iPhone

On Sep 5, 2014, at 6:20 PM, "[dkschwan@cox.net](mailto:dkschwan@cox.net)" <[dkschwan@cox.net](mailto:dkschwan@cox.net)> wrote:

Jim, I'm assuming it will be posted via email for all addresses that Beverly Shuler and Alice Jacobson have on file. Did you return your green postcard to them that was sent out back in June 2014 that updates your address and email address?

---- Karen Miller <[runslowrunner@att.net](mailto:runslowrunner@att.net)> wrote:

Dennis

Ballot count posted where?

Hope more people care enough to respond!

Jim

Sent from my iPhone

On Sep 5, 2014, at 2:31 PM, <[dkschwam@cox.net](mailto:dkschwam@cox.net)> wrote:

Jim, the vote counts are supposed to be posted on Mon, Sept. 8, according to my email today from Dennis Gilman (the other Dennis). As for the remainder of your questions to me, I'm currently writing my response, as it will take some thought and time. I just wanted to let you know that I received this email from you, and how appreciative I am since only you and Nancy Kemper have responded to my request for assistance.

- Dennis Schwander, Rainbow Partners, Free Trade Partners

---- MILLER KAREN <[runslowrunner@att.net](mailto:runslowrunner@att.net)> wrote:

Dear Dennis,

We are at a loss to know what to do. We received a request for a ballot - yay or nay - on keeping the Receiver. We sent it back to Beverly Shuler, who requested it, for tallying. It is our understanding that the consensus opinion would be conveyed to partners. We could then contact the court formally with our statement as a partnership for the consensus opinion. Those who disagree with the consensus are legally allowed to respond to the Court too.

We have received the many emails from Mr. Gilman. We do not agree with his characterization of the Receiver nor negative opinions about the federal Judge. We do not agree with the removal of the Receiver because AS IS CLEARLY EVIDENT IN THIS VERY MOMENT, we have no one at the helm as a manager to take care of the business of the partnership. Prior to the SEC suit against Mr. Schooler and Western, Western acted as manager for each and every partnership. When Western went into the receivership, we lost management. The Court included the GPs in the receivership to protect our interests.

The move by certain investors in some GPs to be removed from the receivership is not beneficial to any of the partnerships in that we lose protection from lawsuits (which are forbidden by the Court for the entities covered by the receivership until the final resolution of the SEC case). In the receivership, the Receiver as directed by the Court can monitor the financial matters of the GP, list the property for sale, etc. at the specific direction of the Court. If we fall out of the receivership, we have no one to monitor our financial and other interests nor who has the authority to do so, even if willing. Our partnership agreements make it difficult, if not effectively impossible, to achieve a consensus of partners for the day-to-day oversight much less the critical issues of sale, etc.

Mr. Gilman represented that the partnership administrators (Beverly Shuler and Alice Jacobson) perform all duties needed to keep the partnership managed.

Yet when I asked Ms. Shuler for the results of the ballot, she refused to answer and referred me to Mr. Gilman. First of all, Mr. Gilman is not a Rainbow partner. Second, Ms. Shuler issued the request for the ballot and directed it to be returned to her and so she has in her hands the information I requested.

By the way, at the time we submitted our ballots, we provided a formal statement of opposition to the removal of the Receiver to be used with the partnership submission to the court. If you wish to see that, I will forward it to you.

I felt obligated to respond to you although I have no clear recommendation to make at this time. I would be interested to know what your opinion is regarding the removal of the Receiver.

Jim Miller

## **EXHIBIT M**

**From:** Thomas Hebrank  
**To:** Puathasnanon, Sam; Kalin, Sara  
**Subject:** FW: Rainbow Partners  
**Date:** Thursday, September 11, 2014 9:09:09 AM

---

FYI

Thomas C. Hebrank  
E3 Advisors

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**From:** Karen Miller [mailto:runslowrunner@att.net]  
**Sent:** Wednesday, September 10, 2014 9:18 PM  
**To:** Thomas Hebrank  
**Subject:** Fwd: Rainbow Partners

So now the vote count is unavailable? Gilman wrote twice he was going to provide total. Beverly sent ballots out to investors to be returned to her and she sent to Gilman. He is not a rainbow partner. Why does he have them instead of Beverly and why won't either one release them?

No one has filed a brief?

What are our options:

1. File a brief?
2. File our statement of opposition?
3. Appear? Not at all interested in doing this

How can we properly convey our position to the court?

This is our priority and we are on standby to act tomorrow.

Jim

Sent from my iPhone

Begin forwarded message:

**From:** Dennis Gilman <DPGilman@clindm-llc.com>  
**Date:** September 10, 2014 at 8:19:52 PM PDT  
**To:** MILLER KAREN <runslowrunner@att.net>  
**Subject:** RE: Rainbow Partners

To my knowledge, no one has stepped up to provide a brief for Rainbow partners... although a brief may be file by Gregory post, the attorney. I don't know for sure at this time. Since no one stepped forward, we don't have a vote count as yet for this GP. The count will be available before the hearing date of October 10<sup>th</sup>.



---

**From:** MILLER KAREN [<mailto:runslowrunner@att.net>]  
**Sent:** Wednesday, September 10, 2014 5:33 PM  
**To:** Dennis Gilman  
**Cc:** Beverly Schuler  
**Subject:** Fwd: Rainbow Partners

We have been directed to you by Beverly Schuler for a copy of the brief in behalf of Rainbow Partners to be submitted to the Court by Friday, September 12, 2014. Ms. Schuler says she doesn't have any information. Additionally, we told her we had not received the final ballot count and now ask you for that data.

Your immediate response is critical to meeting the Friday deadline so we appreciate your action ASAP.

Thanks,  
Jim Miller

Begin forwarded message:

**From:** "Beverly Schuler" <[bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)>  
**Subject:** RE: Rainbow Partners  
**Date:** September 10, 2014 at 5:11:37 PM PDT  
**To:** "MILLER KAREN" <[runslowrunner@att.net](mailto:runslowrunner@att.net)>  
**Cc:** "Dennis Gilman" <[DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)>

Please contact Dennis Gilman as we do not have any of brief information.  
His email is - Dennis Gilman

Beverly Schuler  
email: [bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)  
Alice Jacobson  
email: [alice@wcas.sdcoxmail.com](mailto:alice@wcas.sdcoxmail.com)  
FAX: (760) 295-4632  
West Coast Administrative Services  
270 N. El Camino Real #F533  
Encinitas, CA 92024

-----Original Message-----

From: MILLER KAREN [<mailto:runslowrunner@att.net>]  
Sent: Wednesday, September 10, 2014 4:29 PM  
To: Beverly Schuler; [alice@wcas.sdcoxmail.com](mailto:alice@wcas.sdcoxmail.com)  
Subject: Rainbow Partners

The deadline is Friday for the submission of documents to the Court on the matter of the removal of the GPs from the Receivership.

As you know, I previously submitted to you my statement of opposition to the removal of the Receiver for inclusion with the Rainbow Partners brief to the Court.

Since time is of the essence, would you please provide me with a copy of the brief being submitted for Rainbow Partners.

Thank you. Time is critical so your rapid reply would be greatly appreciated.

Jim Miller

ps We still have not received the ballot totals which reflect the consensus of Rainbow Partners investors who have responded to the request.=

## **EXHIBIT N**

**From:** Karen Miller  
**To:** Kalin, Sara  
**Subject:** miller to Schüler cc gilman re statement of opposition 9/11/14 second forwarding  
**Date:** Wednesday, September 24, 2014 12:18:15 PM  
**Attachments:** [rainbow retention of GP in Receivership.pages.zip](#)

---

Begin forwarded message:

**From:** MILLER KAREN <[runslowrunner@att.net](mailto:runslowrunner@att.net)>  
**Subject:** Rainbow Partners - Removal of GPs from the Receivership of Western Financial  
**Date:** September 11, 2014 at 4:45:45 PM PDT  
**To:** Beverly Schuler <[bev@wcas.sdcoxmail.com](mailto:bev@wcas.sdcoxmail.com)>  
**Cc:** Dennis Gilman <[DPGilman@clindm-llc.com](mailto:DPGilman@clindm-llc.com)>

Notwithstanding the fact that I previously supplied my **statement of opposition** to the removal of Rainbow Partners from the Receivership,

and taking into consideration that Mr. Gilman has advised that a brief has not been prepared nor forwarded to the Court in behalf of our partnership,

I am again providing you with a copy of my **statement of opposition to the removal of Rainbow Partners from the Receivership.**

It is my understanding that this statement should be submitted to the Court by you, the Partnership Administrator.

James R. Miller