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

11 **SECURITIES AND EXCHANGE**  
12 **COMMISSION,**

13 Plaintiff,

14 vs.

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

20 Defendants.

Case No. 12 CV 2164 GPC JMA

**SECURITIES AND EXCHANGE**  
**COMMISSION'S OMNIBUS**  
**SUBMISSION REGARDING DKT.**  
**NOS. 1191, 1194, 1194-1, 1194-2, 1194-**  
**3, 1195, 1199, 1200, 1201, 1202, 1203,**  
**1204, 1204-1, 1205, 1206**

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

21 Plaintiff Securities and Exchange Commission (“SEC”) makes this filing to  
22 address the several submissions filed by Mr. Tom Hebrank, the court-appointed  
23 receiver, and Mr. Gary Aguirre, who has represented that he has been retained to  
24 represent some investors. *See* Dkt. Nos. 1191, 1194, 1194-1, 1194-2, 1194-3, 1195,  
25 1199, 1200, 1201, 1202, 1203, 1204, 1204-1, 1205, 1206. Among these filings, the  
26 court-appointed receiver has filed two applications seeking court approvals related to  
27 the sale and listings of 11 properties that had previously been approved by the Court.  
28 *See* Dkt. Nos. 1191, 1203. Mr. Aguirre’s filings seek to oppose these requests. *See*

1 Dkt. Nos. 1194, 1199, 1200, 1204, 1206.

2 Specifically, in a February 26, 2016 application, the receiver requests the Court  
3 to modify part of the Court's prior order approving the sale of the Jamul Valley  
4 property in order to satisfy the title insurer. *See* Dkt. No. 1191. And in his March 7,  
5 2016 application, in compliance with a prior Court order, the receiver asks the Court  
6 to approve his retention of listing agents for ten other properties. *See* Dkt. No. 1203.  
7 After stating that he was in the process of resolving potential conflicts of interest  
8 among investors he was seeking to represent (*see* Dkt. Nos. 1184-1 ¶¶ 14, 1194-3 at ¶  
9 10), Mr. Aguirre has represented to the Court that he is now counsel for a group of  
10 investors, although he does not explain how those conflicts were resolved, if at all.  
11 *See* Dkt. No. 1204 at ¶ 2. Mr. Aguirre has nonetheless filed 12 pleadings responding  
12 to the receiver's two applications—nine in response to the receiver's February 26th  
13 application (before he claims to have been retained), and three for the March 7th  
14 application. *See* Dkt. Nos. 1194, 1194-1, 1194-2, 1194-3, 1198, 1199, 1200, 1201,  
15 1202 (responding to the Feb. 26, 2016 application, Dkt. No. 1191), Dkt. Nos. 1204,  
16 1204-1, 1206 (responding to the Mar. 7, 2016 application, Dkt. No. 1203).

17 In these filings, Mr. Aguirre does not claim that the receiver is violating the  
18 Court's prior orders that approved the actions the receiver is taking with respect to the  
19 properties. Instead, in response to the receiver's February 26th application regarding  
20 the Jamul Valley property (Dkt. No. 1191), Mr. Aguirre says he needs time to "advise  
21 his clients whether the sale of the Jamul Valley property is in their interest." Dkt. No.  
22 1194 at 3. But the Court has already approved the sale of that property. *See* Dkt.  
23 Nos. 1088, 1191 at 2. All that the receiver asks is a more specific order to satisfy a  
24 request from the title insurance company. *See* Dkt. No. 1191 at 2. Moreover, Mr.  
25 Aguirre does not even appear to represent the vast majority of investors who would  
26 be impacted by this sale. According to the receiver, Mr. Aguirre represents "only  
27 seven of the 205 investors in the GPs that own the Jamul Valley property." Dkt. No.  
28 1195 at 2.

1 As for the receiver’s March 7th application to approve listing agents for ten  
2 properties (Dkt. No. 1203), Mr. Aguirre argues for more time because he claims the  
3 application “would authorize the Receiver to enter into contracts with brokers to sell  
4 the [properties] at prices below the proper listing price....” Dkt. No. 1204 at 5. But  
5 the receiver’s application is not seeking to set the sale prices for the ten properties.  
6 Rather, the receiver is only asking the Court’s approval to hire sales agents. And, the  
7 Court had already approved the receiver doing that. *See* Dkt. No. 1203.

8 The SEC, of course, has no issue with investors expressing their views on  
9 issues concerning the assets of the receivership estate. For example, Mr. Aguirre has  
10 stated that he intends to submit a response, on behalf of his clients, to the receiver’s  
11 pending motion regarding the distribution of assets to investors, which is to be heard  
12 on April 29, 2016. *See* Dkt. No. 1181. In that recommendation, the receiver has  
13 proposed a “One Pot Approach” for the distribution of assets. *See* Dkt. No. 1181-1 at  
14 13, 21. The SEC endorses that approach, and plans to make a submission outlining  
15 its reasons supporting it. As the receiver recognized in making that recommendation,  
16 some investors may have different views about the distribution plan. *See id.* at 9-10.  
17 The SEC appreciates that there may be differing opinions, and takes no issue with  
18 investors making those views known. Indeed, Mr. Aguirre has indicated that his  
19 then-potential clients would like to express their views on the receiver’s proposed  
20 method of distribution once he is officially retained. *See* Dkt. Nos. 1184, 1184-1.  
21 The SEC, of course, has no objection to Mr. Aguirre submitting his clients’ views on  
22 the receiver’s pending motion regarding distribution plan. That is an important issue  
23 for investors, and one which has not been fully decided by the Court.

24 However, the SEC is gravely concerned that Mr. Aguirre’s serial attacks on  
25 ministerial applications by the receiver, which he filed on behalf of a small subset of  
26 investors, are significantly and negatively impacting the investors’ ability to recoup  
27 anything from the defendants’ fraud. The SEC agrees with the receiver that delaying  
28 the sale of Jamul Valley or the listing of the ten properties—even for only one or two

1 months—will only hurt, not help, the investors. As the receiver has made clear,  
2 “money is rapidly being spent to hold properties that are not measurably appreciating  
3 in value.” Dkt. No. 1181-1 at 3. Mr. Aguirre is, nonetheless, asking for time to  
4 challenge the sale of Jamul Valley even though that sale has already been authorized  
5 by the Court; he also seeks to oppose listing the ten properties with brokers because  
6 he claims to be concerned about the sale prices, but the Court has already approved  
7 hiring brokers, the receiver has not even proposed sale prices for those properties, and  
8 both the receiver and whomever is hired to be the broker will have strong incentives  
9 to sell the properties for the highest possible prices.

10 The receiver is now being forced to spend additional scarce estate resources to  
11 respond to Mr. Aguirre’s filings, and the delay is also impacting the value of the  
12 receivership estate, to the detriment of investors. Therefore, the SEC respectfully  
13 requests that the Court deny Mr. Aguirre’s requests to delay the sale of Jamul Valley  
14 or the hiring of brokers to list the ten properties, as set forth in the receiver’s  
15 applications (Dkt. Nos. 1191, 1203).

16  
17 Dated: March 23, 2016

18 */s/ Sara D. Kalin*  
19 \_\_\_\_\_  
20 Sara D. Kalin  
21 Attorney for Plaintiff  
22 Securities and Exchange Commission  
23  
24  
25  
26  
27  
28

**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,  
444 S. Flower Street, Suite 900, Los Angeles, California 90071  
Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

On March 23, 2016, I caused to be served the document entitled **SECURITIES AND EXCHANGE COMMISSION'S OMNIBUS SUBMISSION REGARDING DKT. NOS. 1191, 1194, 1194-1, 1194-2, 1194-3, 1195, 1199, 1200, 1201, 1202, 1203, 1204, 1204-1, 1205, 1206** 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: March 23, 2016

/s/ Sara D. Kalin  
Sara D. Kalin

1                                    ***SEC v. Louis V. Schooler, et al.***  
2                                    **United States District Court—Southern District of California**  
3                                    **Case No. 12 CV 2164 GPC JMA**

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**Other Documents**

[3:12-cv-02164-GPC-JMA](#)

[Securities and Exchange](#)

[Commission v. Schooler et al](#)

**CASE CLOSED on 01/21/2016**

APPEAL,CLOSED,ENE,SEALDC

**U.S. District Court**

**Southern District of California**

**Notice of Electronic Filing**

The following transaction was entered by Kalin, Sara on 3/23/2016 at 4:04 PM PDT and filed on 3/23/2016

**Case Name:** Securities and Exchange Commission v. Schooler et al

**Case Number:** [3:12-cv-02164-GPC-JMA](#)

**Filer:** Securities and Exchange Commission

**WARNING: CASE CLOSED on 01/21/2016**

**Document Number:** [1214](#)

**Docket Text:**

**SUPPLEMENTAL BRIEFING by Plaintiff Securities and Exchange Commission SEC's Omnibus Submission Regarding Dkt. Nos. 1191, 1194, 1194-1, 1194-2, 1194-3, 1195, 1199, 1200, 1201, 1202, 1203, 1204, 1204-1, 1205, 1206. (Kalin, Sara)**

**3:12-cv-02164-GPC-JMA Notice has been electronically mailed to:**

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**3:12-cv-02164-GPC-JMA Electronically filed documents must be served conventionally by the filer to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

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**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1106146653 [Date=3/23/2016] [FileNumber=9771228-0] [47f21848773757ff249d23fd66173c364b8e1d494d93c53a0258fe5c2083546f1f1d39ec8d0a23a765eebf189e1366597aa8ddb73d4acd86ce7264b019825322]]