SAM S. PUATHASNANON, Cal. Bar No. 198430
Email: puathasnanons@sec.gov
LYNN M. DEAN, Cal Bar. No. 205562
Email: deanl@sec.gov
SARA D. KALIN, Cal. Bar No. 212156
Email: kalins@sec.gov

Attorneys for Plaintiff
Securities and Exchange Commission
Michele Wein Layne, Regional Director
Lorraine Echavarria, Associate Regional Director
John W. Berry, Regional Trial Counsel
444 S. Flower Street, Suite 900
Los Angeles, California 90071
Telephone: (323) 965-3998
Facsimile: (213) 443-1904

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

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

Defendants.

Case No. 12 CV 2164 GPC JMA

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTION FOR MODIFICATION OF PRELIMINARY INJUNCTION ORDER TO REMOVE THOMAS C. HEBRANK AS COURT-APPOINTED RECEIVER

Date: February 13, 2015
Time: 1:30 p.m.
Ctrm: 2D
Judge: Hon. Gonzalo P. Curiel

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

I. INTRODUCTION

Defendants Louis V. Schooler and Western Financial Planning Corp. ("Western") ask the Court to remove the court-appointed receiver Thomas C. Hebrank based on nothing more than their unsubstantiated belief that Mr. Hebrank is an agent of plaintiff Securities and Exchange Commission ("SEC"). Defendants present no evidence, only speculation, that Mr. Hebrank lacks independence. And they offer no evidence that the SEC has directed or otherwise coerced Mr. Hebrank to take positions that he did not want to take.

The SEC acknowledges that it has communicated and consulted with Mr. Hebrank and his counsel concerning certain receivership issues. But these kinds of communications are not prohibited. In fact, the Court's preliminary injunction order appointing Mr. Hebrank as the permanent receiver granted him the power to "exercise all the lawful powers of Western" and the general partnerships ("GPs"). Nothing in that order or in the law bars Mr. Hebrank from consulting with the party—the SEC—that sought his appointment.

Moreover, it is only logical that the SEC and Mr. Hebrank and his counsel communicate because they share common interests in this case. The SEC is a governmental agency formed to protect investors, and the receiver was appointed to oversee the orderly administration of the receivership estate for the benefit of investors. Both are here with the interests of the investors—the victims of the defendants' illegal activity—in mind.

The defendants do not point to, because they cannot, a single piece of evidence that shows Mr. Hebrank acting without the best interests of the investors in mind. Instead, they cite to various emails and testimony, but they do not show that Mr. Hebrank was acting as the SEC's agent, as defendants want the Court to believe. Rather, they only show Mr. Hebrank consulting with the SEC in furtherance of their common goals. Just as telling, none of these communications have anything to do with the securities law violations that form the basis of this case. There is nothing

nefarious about these communications, which have been openly disclosed in the billing records accompanying Mr. Hebrank's eight prior fee applications.

This motion is really just a sideshow that has been used to delay consideration of the real issues of the litigation: whether defendants are liable for violations of the federal securities laws. Accordingly, the Court should deny defendants' motion to remove Mr. Hebrank as the court-appointed receiver.

II. RELEVANT FACTUAL BACKGROUND

Mr. Hebrank was appointed as temporary receiver over Western and the GPs at the SEC's request when it filed this action in September 2012. *See* Dkt. No. 10. The Court permanently appointed Mr. Hebrank as the receiver after it issued a preliminary injunction finding that the SEC had made a *prima facie* case that the GP units were securities in the form of investment contracts. *See* Dkt. Nos. 44, 174.

During the entirety of this litigation though, defendants have repeatedly opposed Mr. Hebrank's appointment and his work. One challenge has been their repeated oppositions to Mr. Hebrank's fee applications. Of the eight fee applications, made by Mr. Hebrank and his counsel, the defendants opposed the first seven, criticizing Mr. Hebrank for numerous alleged failings. For example, they stated that "the fact that the Receiver can't get his own fees straight speaks volumes as to the benefit (or, more accurately, the lack of benefit) of the receivership to Western and the general partnership investors." Dkt. No. 74 at 4. Defendants accused Mr. Hebrank of not understanding how the entities in receivership work. *See* Dkt. No. 167 at 2. Defendants later questioned Mr. Hebrank's ability to use GP funds to pay his fees, which has not occurred, because it is inconsistent with his duty to preserve assets for investors. *See* Dkt. No. 183 at 5. Defendants also accused Mr. Hebrank of "an extraordinary abuse of discretion" that merits nothing but his removal from control of Western. Dkt. No. 537 at 2, n.1. Despite defendants' opposition, the Court approved payment on each of Mr. Hebrank's fee applications. *See* Dkt. Nos. 169, 190, 511, 637, 640 and 922.

In opposing the fee applications however, defendants apparently failed to realize that those fee applications disclosed the fact that Mr. Hebrank and his counsel were regularly communicating with the SEC. For example, the first and second fee applications for Mr. Hebrank and his counsel that they filed included detailed time sheets revealing that they were participating in meetings and conference calls with SEC counsel and consulting with the SEC on briefs. *See* Dkt. No. 63 at 3 and Ex. A; Dkt. No. 64, Ex. A.; Dkt. No. 175 at 3 and Ex. A; Dkt. No. 176 at 2-4 and Ex. A. In connection with receiver counsel's third fee application, he revealed that he sought access from the SEC to documents concerning Real Asset Locators obtained by the SEC in its investigation. Dkt. No. 198 at 4. And in the sixth fee application from receiver's counsel, he stated that his firm "participated in several conferences with the [SEC's] appellate counsel regarding the facts and legal issues involved in the appeal and cross-appeal" and "conferred with counsel for the [SEC] prior to the October 28, 2013 Early Neutral Evaluation ('ENE') with Magistrate Judge Jan Adler …." Dkt. No. 567 at 3.

Defendants have directed additional, unsubstantiated accusations at Mr. Hebrank. Defendants told the Court that the GPs have been harmed by Mr. Hebrank's actions. *See* Dkt. No. 505 at 7-9. They were wrong; Mr. Hebrank did not harm the GPs as alleged. *See* Dkt. No. 508 at 1-2. In connection with their motion to remove the GPs from the receivership, defendants also wrongly attacked Mr. Hebrank for purportedly unilaterally obtaining property appraisals. *See* Dkt. 195-1 at 21. The Court, though, had previously authorized Mr. Hebrank to obtain those appraisals. *See* Dkt. No. 59 at 11-12. And recently, during an October 10, 2014 hearing, defendants informed the Court that Mr. Hebrank was using investor money to pay his fees. Defendants again were incorrect. *See* Hrg. Tr. (10/10/2014) at 102:23-103:16. After hearing an explanation from receiver's counsel, the Court stated that it would clarify the issue because investors were under the wrong impression about this issue. *See id*. at 103:17-104:16.

III. ARGUMENT

A. Communication Between Mr. Hebrank And The SEC Is Not Improper

The Court's broad grant of authority to appoint Mr. Hebrank as the receiver in this case does not prohibit him from communicating with any of the parties in carrying out his responsibilities as receiver. Courts have recognized that the district court's power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad. *See SEC v. Hardy*, 803 F.2d 1034, 1037-38 (9th Cir. 1986). Courts have also acknowledged that a primary purpose of equity receiverships is to promote the orderly and efficient administration of the estate by the court for the benefit of creditors and investors. *See id.*

The defendants argue that Mr. Hebrank has "abdicated" his duties to the Court because he has consulted with the SEC. But the Defendants do not cite any authority that prohibits a court-appointed receiver from communicating with the party that sought his or her appointment. Instead, defendants cite five cases that stand for the general proposition that the receiver is an officer of the court and cannot serve as an agent of the government. *See* Def. Mot. at 4. The SEC agrees with that unremarkable proposition. None of the cited cases, however, hold that a receiver is prohibited from communicating with the SEC, or any other party for that matter.

Indeed, the Court's preliminary injunction order appointing Mr. Hebrank as the receiver ("PI Order") does not prohibit any of what the defendants claim was improper conduct by Mr. Hebrank. All of Mr. Hebrank's duties and powers arise from the Court's broad delegation of authority to him in the PI Order. *See* Dkt. No. 174. In appointing the receiver, the Court, among other things, gave Mr. Hebrank "full power over all funds, assets, collateral, premises . . ., choses in action, books, records, papers and other property belonging to, being managed by or in possession of or control of Western." *Id.* at 3. In addition, the Court authorized Mr. Hebrank "to

exercise all the lawful powers of Western, its subsidiaries, and the entities listed on Schedule 1." *Id.* at 4.

In short, the powers granted to Mr. Hebrank, as set forth in the PI Order, give him the authority to do what is necessary to preserve the receivership estate for the benefit of investors. Dkt. No. 174 at 4. In their motion to remove him as receiver, the defendants did not, and cannot, point to a single provision in that order that prohibits Mr. Hebrank from consulting with the SEC. Thus, under the PI Order, to the extent that Mr. Hebrank determines that it is necessary for him to communicate with the SEC, it is within his authority to do so. As long as Mr. Hebrank believes it is in the best interest of the estate and the investors to consult with the SEC, then he can and should consult with the SEC. Nowhere in their motion do the defendants ever point to a single piece of evidence even remotely suggesting that Mr. Hebrank did not think he was acting in the best interest of his receivership estate or the investors when he was communicating with and consulting with SEC counsel. In fact, defendants did not ask Mr. Hebrank at any point in his deposition whether he believed he was acting in the best interest of investors when he was communicating with the SEC.

B. The SEC And Mr. Hebrank Have A Shared Interest To Protect The GP Investors

It is also not unusual at all for a court-appointed receiver like Mr. Hebrank to consult with the SEC. It is common for a receiver and the SEC to work closely together in SEC receivership matters because they have shared interests: preserving the estate for the benefit of the investors who are victims of illegal activity. The SEC's mission "is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation." http://www.sec.gov/about/whatwedo.shtml; *see also Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 195 (1976) ("The Securities Act of 1933 . . . was designed to provide investors with full disclosure of material information concerning public offerings of securities" and "to protect investors against fraud."); *Tcherepnin v. Knight*, 389 U.S. 332, 338 (1967) (one of the "central purposes" of the

Securities Exchange Act of 1934 "is to protect investors"). In furtherance of those goals, the SEC can seek to have disgorged funds and receivership assets distributed to investors. *See, e.g., United States v. Real Property Located at 13328 and 13324 State Highway 75 North, Blaine County, Idaho*, 89 F. 3d 551, 553 (9th Cir. 1996) (proceeds from sale of disgorged property would be "placed into a fund to be distributed according to a plan by the SEC and approved by the district court.")

Mr. Hebrank, as the court-appointed receiver, has the same investor protection goals. A receiver, after all, is someone the SEC seeks to have appointed to work for the benefit of investors have been the victims of illegal activity. *See Hardy*, 803 F.2d at 1037-38 (recognizing that the primary purpose of equity receiverships is to promote the orderly and efficient administration of the estate by the court for the benefit of creditors and investors).

This case is a classic example of the alignment of these shared goals. The SEC brought this case as an emergency action to stop defendants from continuing their illegal offer and sale of securities and their alleged fraud. In doing so, the SEC seeks to hold defendants accountable for their violations of the securities laws and, if possible, make a distribution to harmed investors. The Court, exercising its broad equitable powers, granted the SEC's request for a receiver, appointing the person recommended by the SEC, to manage the affairs and assets of Western and the GPs for the benefit of investors. *See* Dkt. No. 10 at 11-14; Dkt. No. 174 at 3-5. For example, among other things, Mr. Hebrank has ensured that the mortgages secured by certain GP properties are paid to avoid default and foreclosure. He has used the appraisals of the GP properties, obtained with court approval, to appeal and reduce the property tax assessments on certain GP properties. These are all activities designed for one purpose—to benefit the investors. There is nothing wrong at all for Mr. Hebrank to consult with SEC counsel to further this goal.

Defendants, however, argue that Mr. Hebrank should never have consulted with the SEC without also communicating with the defendants. *See* Def. Mot. at 13-

19. The PI Order does not require Mr. Hebrank to communicate with the defendants on any specific matters. Mr. Hebrank is simply not obligated to consult with the ones who are accused of engaging in the illegal activity that harmed the investors he is appointed to protect. The defendants have admitted their failure to register the securities. *See* Dkt. No. 255 (Answer). Indeed, they have no substantive defense to the SEC's claim that they violated Section 5 of the Securities Act through their unregistered offer and sale of the GP units to investors. *See* Dkt. No. 643-1 at 9. The whole point of that provision is to make sure issuers of securities, as the defendants were here, fully disclose all aspects of the risks and properties of the securities being offered or sold. *See Ernst & Ernst v. Hochfelder*, 425 U.S. at 195.

In addition, and perhaps more importantly, the defendants' interests are not at all aligned with those of Mr. Hebrank. Indeed, their own actions show how far apart their interests are. The defendants opposed, and continue to oppose, the imposition of the receivership over Western and the GPs. They have opposed seven of the eight fee applications submitted by Mr. Hebrank and his counsel. *See* Dkt Nos. 74, 117, 167, 183, 463, 505, 537, 609, 633. They have made wild, inaccurate allegations regarding Mr. Hebrank's work. They wrongly accused Mr. Hebrank of unilaterally obtaining property appraisals. *See* Dkt. 195-1 at 21; *see also* Dkt. No. 59 at 11-12 (authorizing Mr. Hebrank to obtain property appraisals). And they wrongly accused Mr. Hebrank of using investor money to pay his fees. *See* Hrg. Tr. (10/10/2014) at 102:23-104:16.

Therefore, it is not at all surprising that Mr. Hebrank has had what the defendants say are "one-sided" communications with the SEC. The defendants are not only alleged to have violated the law in dealing with the investors, they have admitted to some of these violations. They have also attacked and opposed Mr. Hebrank at every turn. In contrast, the SEC sought Mr. Hebrank's appointment to protect the interests of those investors, and thus share the same goal of investor protection as Mr. Hebrank. Not only is Mr. Hebrank allowed to consult with the SEC without talking to the defendants, under these circumstances, it was incumbent upon Mr. Hebrank to do so if he thought that

would be in the interests of the investors.

C. The Communications Between Mr. Hebrank And The SEC Were Made In Furtherance Of Their Shared Interest

Ignoring all of this, the defendants direct the Court to a host of instances where Mr. Hebrank communicated and consulted with SEC counsel about a variety of matters, and then argue that this was all improper. They argue that such "one-sided distribution of information" demonstrates the Mr. Hebrank's bias. Def. Mot. at 13. But this position ignores the shared interest between the SEC and Mr. Hebrank, while also ignoring the adversarial relationship between defendants and Mr. Hebrank. Recognizing the alignment of interest between the SEC and Mr. Hebrank is necessary to place the communications between the SEC and Mr. Hebrank in their proper context. They have communicated and consulted each other in furtherance of their shared interest to protect the receivership entities and investors.

Communication between the receiver and the SEC is typical in SEC enforcement actions because cooperation can benefit the receivership entities and investors. For example, Mr. Hebrank and the SEC communicated on or around September 6, 2012, the day he was appointed, to discuss, among other things, the takeover of Western, the asset freeze ordered by the Court, and the location of records. Defendants have presented these communications as examples in which Mr. Hebrank shared information with the SEC but not defendants. *See* Def. Mot. at 13-15. But as the text of the emails cited by defendants make clear, these communications simply related to the timely implementation of the relief sought by the SEC and granted by the Court, an issue that is typical at the outset of SEC receiverships.

Ensuring that these matters were quickly addressed protected the receivership estate and investors. The SEC asked for the appointment of a receiver over Western, explaining the need for the receiver to update the SEC on his progress. The SEC asked for an asset freeze over Western's assets, explaining the need to resolve questions regarding the scope of the asset freeze. And the SEC asked for the preservation of

Western's records, which led to the discussions regarding the location of the documents and computer files. Indeed, Mr. Hebrank explained at his deposition that he communicated only with the SEC on these matters because the SEC was the moving party. *See* Def. Mot at. 14.

D. There Is No Evidence That Mr. Hebrank Acted Without The Best Interests Of The Investors In Mind

Defendants' arguments about Mr. Hebrank's alleged lack of independence are based entirely on the defendants' speculation that Mr. Hebrank is beholden to the SEC. Defendants claim that Mr. Hebrank has abdicated neutrality and become the "*de facto* agent of the SEC." Def. Mot. at 4. That is not true. In fact, the SEC's recent response to Mr. Hebrank's November 21, 2014 report (Dkt. No. 852) makes that clear. The SEC argued *against* Mr. Hebrank and his two proposals, contending they are flawed and should not be adopted by the Court. *See* Dkt. No. 880 at 10-13.

The defendants cite to a variety of emails and deposition testimony all to try and convey the impression that Mr. Hebrank acted improperly. But while the SEC and Mr. Hebrank have certainly communicated and consulted on issues of aligned interests, the defendants did not present any evidence that the SEC directed or instructed Mr. Hebrank to take any position contrary to his views. Nor did they offer any evidence that Mr. Hebrank purposefully took steps that were not in the best interests of the investors. This alone is fatal to the defendants' motion.

The defendants' characterization of the emails and testimony is also wrong. For one, they criticize Mr. Hebrank for his "collaboration with the SEC on preparation of court filings and altering final conclusions based on SEC litigation concerns." Def. Mot. at 7-13. In support of this claim, they identify an October 18, 2012 email between Mr. Hebrank and the SEC, and claim Mr. Hebrank lacked independence with regard to his second report and proposal to the Court. *Id.* at 7-8. But there is no evidence to support the defendants' speculation that the SEC somehow had "influence" over Mr. Hebrank's filings. *Id.* All this shows is that Mr. Hebrank solicited, considered, and then accepted

suggestions from the SEC. Defendants offer their conjecture that Mr. Hebrank's final language choice in his report about Mr. Schooler's obligations to fund Western "demonstrates the SEC's influence over his filings with the Court." But they do not offer any evidence that Mr. Hebrank made a change because the SEC wanted the change made. Indeed, other than the email itself, the only evidence the defendants cite is Mr. Hebrank's deposition testimony where he confirms his understanding that he was to act independently. *See id*. at 8.

They also speculate that Mr. Hebrank was acting at the SEC's bidding with respect to his briefs filed in opposition to defendants' motion to modify the preliminary injunction by removing the GPs from the receivership. *See id*. at 9-10. In support of this theory, they point to emails sent on June 20, 2013 to argue that Mr. Hebrank and his counsel "were very aware and cognizant of the effect their language choices in their reports to Court might have on arguments the SEC might want to make as part of its litigation strategy." *Id*. at. 9. But this ignores a critical fact—both the SEC and Mr. Hebrank opposed the removal of the GPs from the receivership. *See* Dkt. Nos. 206, 207. That the SEC and Mr. Hebrank held the same views about the motion to remove the GPs from the receivership does not mean that the receiver was acting blindly at the SEC's behest. Rather, the parties merely held the same view on the issue and wanted to ensure that their respective briefs did not undermine the others' arguments. The defendants have no evidence that the SEC directed Mr. Hebrank to oppose defendants' motion or that the receiver did so reluctantly or with contrary views on the issue. Other than sheer speculation, there is nothing to support defendants' theory that Mr. Hebrank failed to "take steps to ensure that his reports to the Court were his independently-arrived-at conclusions." *Id*. at 9-10.

Finally, the defendants argue that Mr. Hebrank's November 21, 2014 report, addressing whether it would be possible to release some GPs from the receivership while not releasing others (Dkt. No. 852), is not independent because they say his legal arguments "were largely researched by the SEC's appellate counsel." *Id*. at 10. This

argument though exaggerates the significance of the SEC's involvement on this issue. All that this shows was that two parties who shared the same position with respect to this issue also shared their research. More importantly, all that the defendants have shown is that Mr. Hebrank's counsel sought information from the SEC regarding some legal arguments that Mr. Hebrank wanted to make. There is nothing wrong or unusual about a receiver consulting with the government agency that sought his appointment, when the receiver and the agency's interests are squarely aligned.

The defendants also mischaracterize the communications. One legal issue that the SEC's and receiver's counsel discussed involved the impact to the GPs of any future disgorgement that may be paid. Defendants' characterize these discussions as related to the SEC's "disgorgement litigation strategy." *Id*. at 11. To the contrary, whether investors can receive a distribution funded in part by disgorgement that defendants' may pay is a real consideration, not strategy, related directly to investor protection and the orderly administration of the receivership estate. Making every effort to ensure that investors can participate in any future distribution and recover some of their lost investment goes to the heart of the SEC's and Mr. Hebrank's common goals. *See* Dkt. No. 934 (tentative ruling) at 2, 3 ("the Court now concludes that a just and fair endgame is the main focus" and "[c]ontinuation of the receivership ensures . . . that any action taken in relation to the GPs or GP properties is the most equitable overall."). And defendants present no evidence, only speculation, that Mr. Hebrank and his counsel failed to evaluate these issues independently.

E. Removing Mr. Hebrank Now Would Negatively Impact The GPs And Investors

Replacing Mr. Hebrank now with a new receiver would likely come at great cost to the receivership estate and unnecessarily harm investors. Indeed, even if the defendants had shown, with real evidence and not wild speculation, that there were some instances where Mr. Hebrank's conduct was questionable—which they have not done—that would not justify his removal as receiver. *See SEC v. Private Equity Mgmt. Group.*,

Inc., 2009 WL 2019747, at *6 (C.D. Cal. July 2, 2009) ("[w]hile certain instances of conduct are questionable, the Court disagrees with [defendant] that removal [of the receiver] is warranted.").

Rather, the fundamental question is whether removing Mr. Hebrank now, based on just the defendants' speculative theories, would harm the investors. *See id.* (denying motion to remove receiver and finding that removing receiver "would cause the estate irreparable harm"). There is no question it would. Mr. Hebrank has already invested nearly two and a half years working on this litigation, collecting court-approved fees for that work. Appointing a new receiver now, based on sheer speculation by the defendants, would result in substantial hardships for the investors. It would delay the final distribution and conclusion of the receivership estate. It would generate unnecessary fees and costs as a new receiver transitioned into the role. And it would complicate an already complex situation regarding the estate itself. The Court is already aware of Western's tenuous situation. Creating new financial and administrative burdens by appointing a new receiver would only exacerbate Western's precarious financial condition.

There is simply no real evidence that Mr. Hebrank failed to act independently or in the best interests of investors. He has carried out his duties with only the best interests of the investors in mind.

///

///

///

///

///

///

///

///

///

IV. CONCLUSION

For the foregoing reasons, the SEC respectfully requests that the Court deny defendants' motion to for modification of preliminary injunction order to remove Thomas C. Hebrank as court-appointed receiver.

Dated: January 23, 2015

Respectfully submitted,

/s/ Sam S. Puathasnanon
Sam. S. Puathasnanon
Lynn M. Dean
Sara D. Kalin
Attorneys for Plaintiff
Securities and Exchange Commission

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 January 23, 2015, I caused to be served the document entitled **PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTION FOR MODIFICATION OF PRELIMINARY INJUNCTION ORDER TO REMOVE THOMAS C. HEBRANK AS COURT-APPOINTED RECEIVER** 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: January 23, 2015

/s/ Sam S. Puathasnanon
Sam S. Puathasnanon

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@ethreeadvisors.com
Court-Appointed Receiver