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18 Attorneys for Defendants

19 **UNITED STATES DISTRICT COURT**
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 **SECURITIES AND EXCHANGE**
22 **COMMISSION,**

23 Plaintiff,

24 v.

25 **LOUIS V. SCHOOLER and**
26 **FIRST FINANCIAL PLANNING**
27 **CORPORATION d/b/a**
28 **WESTERN FINANCIAL**
PLANNING CORPORATION,

Defendants.

Case No. 12 CV 2164 GPC JMA

DECLARATION OF PHILIP H. DYSON IN SUPPORT OF DEFENDANTS' MOTION FOR MODIFICATION OF PRELIMINARY INJUNCTION (INJUNCTION AGAINST RECEIVER FOR INTERFERENCE WITH BALLOTING BY GENERAL PARTNERS)

Date: December 19, 2014
Time: 1:30 p.m.
Courtroom: 2D
Judge: Hon. Gonzalo P. Curiel

1 I, PHILIP H. DYSON, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

2 1. I have personal knowledge of the matters set forth herein and, if called
3 as a witness, I could and would testify competently hereto under oath.

4 2. I am co-counsel of record for Defendants in this action.

5 3. Attached hereto as "Exhibit 1" is a true and accurate copy of the ballot
6 for Road Runners Partners, which my office obtained in early August 2014.

7 4. Attached hereto as "Exhibit 2" is a printout from Receiver Thomas
8 Hebrank's website at [http://www.ethreadvisors.com/cases/sec-v-louis-v-schooler-](http://www.ethreadvisors.com/cases/sec-v-louis-v-schooler-and-first-financial-planning-corp-dba-western-financial-planning-corp)
9 [and-first-financial-planning-corp-dba-western-financial-planning-corp](http://www.ethreadvisors.com/cases/sec-v-louis-v-schooler-and-first-financial-planning-corp-dba-western-financial-planning-corp), printed on
10 September 2, 2014.

11 5. Attached hereto as "Exhibit 3" is a true and correct copy of an email
12 sent to my office by Alice Jacobson, secretary for approximately one-half of the
13 general partnerships established by Defendants ("GPs"), which was sent by the
14 Receiver on August 25, 2014.

15 I declare under penalty of perjury under the laws of the United States that the
16 foregoing is true and correct.

17 Executed this 2nd day of September, 2014, in La Mesa, California.

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Philip H. Dyson

EXHIBIT 1

ROAD RUNNER PARTNERS,
A California General Partnership

BALLOT
REMOVAL OF RECEIVER PLACED UPON
GENERAL PARTNERSHIP

(Please Print)

NAME: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

This ballot is requesting your immediate vote on the following issues:

1. Request the above partnership to take the legal steps necessary to remove the partnership from control of the Receiver.
 - () 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.
2. Request that each investor in our general partnership agree to an assessment of not more than Thirty Dollars (\$30.00) per investor to enable our general partnership to retain legal services related to the removal of the receivership.
 - () YES, I CAST ALL OF MY UNIT VOTES IN FAVOR OF ASSESSING EACH INVESTOR IN THE GENERAL PARTNERSHIP NOT MORE THAN THIRTY DOLLARS (\$30.00) FOR RETAINING LEGAL SERVICES RELATED TO THE REMOVAL OF THE RECEIVERSHIP.
 - () NO, I WILL RETAIN MY OWN ATTORNEY.

Date: _____ Print Name: _____ Signature: _____

Date: _____ Print Name: _____ Signature: _____

In order for your vote to count you must return your ballot on or before: AUGUST 31, 2014
Return your completed ballot either by:

Scan the ballot & EMAIL it to: Alice@wcas.sdcoxmail.com or Bev@wcas.sdcoxmail.com, OR
FAX the completed ballot to: 760-295-4632, OR
MAIL the completed ballot to: West Coast Administrative Service
270 North El Camino Real, #F 533, Encinitas, CA 92024

EXHIBIT 2



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SEC v. Louis V. Schooler and First Financial Planning Corp d/b/a Western Financial Planning Corp

Case Summary:

On September 6, 2012, Thomas C. Hebrank of E3 Advisors was appointed temporary receiver for Western Financial Planning Corporation and the entities it controls, including the general partnerships ("Defendants"), pursuant to an Order entered by the United States District Court for the Southern District of California in an action against Defendants filed by the Securities and Exchange Commission.

Document Links (PDF Format):

Case Updates:

JULY 18, 2014 COURT HEARING: What did the Court decide at the July 18, 2014 hearing?

The Court's Order is posted below (see Order on Reconsideration of Releasing the GPs from the Receivership) and should be read carefully. To briefly summarize, the Court determined the General Partnerships should remain in the receivership, but they should have an opportunity to state their views before the Court's August 16, 2013 order is officially changed. Accordingly, the Court set a hearing for October 10, 2014 at 1:30 p.m. and has allowed each General Partnership to file a single statement, not to exceed 15 pages, no later than September 12, 2014. The statement (or brief) should indicate whether the Partnership wants to be heard in open court at the October 10, 2014 hearing. If an investor disagrees with the statement of his or her GP, the points of disagreement must be included in a separate section of the statement, in which case the statement may not exceed 20 pages. All statements must include an attachment that lists the names of the individual investors that have signed on to the statement. Each General Partnership that wishes to be heard at the October 10, 2014 hearing will be given 15 minutes to address the Court.

I recently received a ballot circulated by the Partnership Administrators. Was this ordered by the Court?

No, the ballots were not approved or authorized by the Court, nor were the issues the ballots ask investors to vote on approved or authorized by the Court.

After the July 18th hearing, a small group of investors held an informal meeting and created a committee that appears to be responsible for generating this ballot, according to correspondence provided by some investors. The Partnership Administrators then circulated these ballots to investors by e-mail without the Receiver's prior knowledge or input. It has been represented to the Receiver that an investor from each of the 84 active General Partnerships requested the ballot be circulated. We additionally understand that these ballots only went out to investors that had email addresses available. The ballot also asks investors to approve assessing each of the approximately 9,000 investor interests for the 84 General Partnerships (there are 3,400 investors, but many hold interests in more than one partnership) \$30 each for retaining legal services. The assessment of legal fees has not been authorized by the Court, and the Receiver is not requesting that the investors pay these amounts.

APRIL 25, 2014 COURT ORDER RE: SECURITIES & RECEIVERSHIP: On April 25, 2014, the Court, in response to motions from both Mr. Schooler and the SEC, issued an order affecting both Western Financial Planning ("Western") and the General Partnerships ("GP"). The Court's order is attached below and I encourage you to read it for further details and information.

In the order, the Court has determined that the GP units sold to investors are "securities" and therefore are governed by federal securities laws and fall under the SEC's oversight. Given the Court's conclusion that the GPs are securities, the Court has set a hearing for July 18, 2014 to reconsider its August 16, 2013 Order indicating the GPs will be released from the receivership.

Additional information will be provided after the parties file their briefs on May 9th and May 23rd addressing the reconsideration issues raised by the Court.

EXPIRED GENERAL PARTNERSHIPS: The Court authorized and directed that the Receiver take a vote of those GPs whose terms had expired or were about to expire. Investors had the option to 1) extend the term of the GP to December 31, 2019, or 2) terminate the GP and sell the property. Investors were given 30 days from the date the ballots were sent out to send in their ballots. The GP Agreement requires a majority vote of the investors eligible to vote to terminate the GP and sell the property. In addition, the Co-Tenancy Agreements require that all GPs with an interest in a particular property unanimously vote to sell that property.

Below is a summary of the results of the voting. Additional detail can be found by following this link. Based on the below, all expired GPs will be extended to December 31, 2019. Only one GP, Reno Vista obtained a majority vote to sell the property; however, since the remaining GPs with an interest in that property (Reno and Reno View) did not vote to sell, and the Co-Tenancy Agreements require that all GPs affirmatively vote to sell, the GP term will be extended.

Western Financial Planning - Voting Results for Expired GPs

Partnership	Results - % of Eligible Voters			
	Vote to Extend	Vote to Sell	Did not Vote	Total Eligible %
Bratton View	46.28%	37.18%	16.54%	100.00%
Valley Vista	54.18%	33.76%	12.06%	100.00%
Honey Springs	17.36%	40.31%	42.32%	100.00%
Jamul Meadows	36.58%	30.67%	32.74%	100.00%
Lyons Valley	49.75%	22.70%	27.55%	100.00%
Hidden Hills	51.09%	38.64%	10.27%	100.00%
Reno	44.75%	15.50%	39.75%	100.00%
Reno View	24.71%	36.00%	39.28%	100.00%
Reno Vista	35.71%	50.00%	14.29%	100.00%
Average	40.05%	33.86%	26.09%	100.00%

Properties:
Bratton Valley
Jamul Valley
Washoe I

FREQUENTLY ASKED QUESTIONS:

Who is the Receiver? Why was there a Receiver appointed? Thomas C. Hebrank was appointed by the Federal District Court on September 6, 2012. The Receiver was appointed after a complaint was filed by the Securities and Exchange Commission against Louis V. Schooler and First Financial Planning Corp. dba Western Financial Planning Corp. ("Western"). Your partnership was created by Western and is one of the subjects of the ongoing litigation between the SEC and Louis Schooler.

I heard that the Receiver was supposed to release the partnerships from his control. What happened? Although the District Court did rule that the Partnerships were to be removed from the receivership, both Louis Schooler and the SEC appealed that decision. The appeal is scheduled to be heard in July 2014. However, the Court recently ruled that, in fact, your investment was an unregistered security. In light of that decision, the District Court has indicated it intends to reconsider its decision to release the partnerships from the receivership and has set a hearing for July 18, 2014 to decide the issue.

I recently received an invoice from you/the Receiver. Why am I being billed? As your investment is an interest in a partnership that owns land, there are basic operating expenses that must be met. Typically, these would be charges for the payment of administrator salaries, insurance, property taxes and monthly and annual accounting. Additionally, there are amounts owed to Western and those are being collected as well. These amounts were typically for loans that were made by Western to the partnerships. The Court has ordered the Receiver to collect these amounts.

Am I being billed for the Receiver and his Attorney's work? At the beginning of the case, the Court authorized certain of Western's units in the partnerships to be sold such that Western would have sufficient funds to pay Court approved fees and costs of the Receiver and his counsel. This lasted for only 4 months and the amount generated from the unit sales was approximately \$150 per month per partnership. Currently, the partnerships are only paying operational expenses as described above and for the repayment of loans to Western as they are due. The partners have paid no fees to the Receiver and his attorneys. The Receiver and his counsel are paid from the assets of Western.

When will this be over? It is impossible to put a time frame on the conclusion of this case, as a number of key issues remain to be resolved. The case will likely continue for a period of months and possibly a year or more.

Who can I talk to about my investment? The partnership administrators will have specific details about your partnership interests. You can also periodically visit the Receiver's website for additional updates as far as the case, Receiver's Reports and other legal filings (www.ethreeadvisors.com). The Receiver and his staff are happy to take your questions, however to keep expenses low we ask that you check the FAQ or website first.

ADMINISTRATOR CONTACT INFORMATION:

West Coast Administrative Services
270 N. El Camino Real #F533
Encinitas, CA 92024

Alice Jacobson – alice@wcas.sdcoxmail.com (760) 295-9486
Beverly Schuler – bev@wcas.sdcoxmail.com (760) 295-9482

Court Filings:

- o TRO and Orders: (1) Freezing Assets; (2) Appointing a Receiver; (3) Prohibiting the Destruction of Documents; (4) Granting Expedited Discovery; and (5) Requiring Accountings and Appointing a Permanent Receiver
- o Preliminary Injunction Order 10-5-12
- o Receivers First Report 09-14-12
- o Defendant's Motion to Dismiss
 1. Def's Motion to Dismiss Complaint
 2. Schooler Dec – Defs Motion to Dismiss Complaint
 3. Ps&As – Defs Motion to Dismiss Complaint
 4. Order Denying Defendants' Motion to Dismiss
- o Western Investor Initial Notification Letter 10-12-12
- o Receivers Report #2 and Monitor Proposal

1. [SEC's Brief re Receivers Second Report](#)
2. [Defendant Response to Receiver Rpt 2 and Monitor Proposal](#)
3. [Order on Receivers Report #2](#)
- [Fee Applications #1](#)
 1. [Allen Matkins 1st Fee Application](#)
 2. [Receiver's 1st Fee Application](#)
 3. [Teris 1st Fee Application](#)
 4. [Order Granting in Part First Fee Applications](#)
- [Preliminary Injunction Filing](#)
 1. [SEC's Ntc of Filing Proposed PI Order](#)
 2. [Def's Objs to Proposed PI Order](#)
 3. [SEC's Ntc of Filing Rsps to Defs' Objs to Proposed PI Order](#)
 4. [Ntc of Filing of Receiver's Rsps to Proposed PI Order](#)
 5. [Defendants Reply to SEC and Receiver](#)
 6. [Ntc Mtn & Mtn for Modification of Prelim Injunction](#)
 7. [Memo P&As ISO Mtn for Modification of Prelim Injunction](#)
 8. [Decl Schooler ISO Mtn for Modification of Prelim Injunction](#)
 9. [Receiver's Response – Mtn for Modification of Prelim Injunction](#)
 10. [SEC's Response – Mtn for Modification of Prelim Injunction](#)
 11. [Schooler's Reply re Motion to Modify](#)
 12. [Receiver's Sur-reply to Motion to Modify](#)
- [Receiver's Report #3](#)
 1. [Order Approving Receiver's Third Report](#)
- [Motion for Authority to Sell Automobiles and Gold](#)
 1. [Hebrank Dec -- Motion for Authority to Sell Autos & Gold Coins](#)
 2. [Motion for Authority to Sell Autos & Gold Coins](#)
 3. [OST on Receiver's Mtn to Sell Autos & Gold Coins](#)
 4. [Order Granting Mtn to Sell Autos Gold Coins](#)
- [Order Granting Receiver's Motion on Notifications of Investors](#)
- [Preliminary Injunction Order 3-13-13](#)
- [Fee Applications #2:](#)
 1. [Allen Matkins 2nd Fee Application](#)
 2. [Receiver's 2nd Fee Application](#)
 3. [Schooler Objection to Second Fee Apps](#)
 4. [Receivers Reply to 2nd Fee Apps Opposition](#)
 5. [Order Granting In Part 2nd Fee Apps](#)
- [Cotton Driggs 1st Interim Fee App](#)
- [Receiver's Forensic Accounting Report -- Part One](#)
 1. [Order Granting Forensic Accounting Report -- Part One](#)
- [Receiver's Report #4](#)
 1. [Order Approving 4th Interim Report](#)
- [Motion for Authority to Pursue LinMar Claims](#)
 1. [Hebrank Dec -- Motion for Authority to Pursue LinMar Claims](#)
 2. [Motion for Authority to Pursue LinMar Claims](#)
 3. [Schoolers Opp -- Motion for Authority to Pursue LinMar Claims](#)
 4. [Ps&As -- Motion for Authority to Pursue LinMar Claims](#)
 5. [Receiver's Reply to Opposition](#)
- [Fee Applications #3:](#)
 1. [Allen Matkins 3rd Fee Application](#)
 2. [Receiver's 3rd Fee Application](#)
 3. [Duffy Kruspodin 1st Fee Application](#)
 4. [Hebrank Declaration](#)
 5. [Schooler's Opp to 3rd Fee App](#)
 6. [Dyson Dec -- Schooler's Opp to 3rd Fee App](#)
 7. [SECs Ntc of Non-Opp to Fee Apps](#)
 8. [Reply ISO 3rd Fee App](#)
 9. [Order Re 3rd Fee Apps](#)
- [Receiver's Valuation Report & Exhibits](#)
 1. [Schooler's Response to Receiver's Report](#)
 2. [SEC's Reply to Schooler's Opp to RE Report](#)
 3. [Kalin Dec -- SEC's Reply to Schooler's Opp to RE Report](#)
 4. [Receiver's Reply to Schooler's Opp to RE Report](#)
 5. [Hebrank Dec -- Receiver's Reply to Schooler's Opp to RE Report](#)

- Receiver's Motion to Sell Office Equipment and Relocate
 1. Receiver's Declaration re Motion to Sell Office Equipment and Relocate
 2. Order Approving Motion to Sell Furniture Etc.
- Court Order RE: Prel Injunction, GP's, Valuation Rpt, & LinMar
 1. Schooler's Ntc of Mtn for Reconsideration of Courts Order Modifying PI
 2. Ps&As – Schooler's Ntc of Mtn for Reconsideration of Courts Order Modifying PI
 3. POS – Schooler's Ntc of Mtn for Reconsideration of Courts Order Modifying PI
 4. Schooler's Mtn for OST – Mtn for Reconsideration of Courts Order Modifying PI
 5. Schooler's Request for Oral Argument – Mtn for Reconsideration of Courts Order Modifying PI
- Fee Applications #4
 1. Receiver's 4th Interim Fee App
 2. AM's 4th Interim Fee App
 3. Ntc of 4th Interim & Cotton Driggs Fee Apps
 4. Schooler's Response to 4th Fee App
 5. Receiver's Reply to Schooler's Opposition
 6. Hebrank Declaration re: Reply to Schooler's Opposition
 7. Order re: 4th Fee Apps
- 5th Interim Report
 1. Order re: 5th Interim Report
- Receiver's Forensic Accounting Report – Part Two
- Mtn for Stay Pending Appeal
 1. P&A's ISO Mtn for Stay Pending Appeal
 2. 2013-11-01 0509 Receiver's Opp – Mtn for Stay Pending Appeal
 3. 2013-11-01 0510 SEC's Opp – Mtn for Stay Pending Appeal
 4. 2013-11-08 0512 Defs Reply ISO Mtn for Stay Pending Appeal
 5. 2013-11-14 0513 Order Granting In Part – Denying In Part Motion for Stay
- 6th Interim Report
 1. Order on 6th Interim Report
- Ex Parte Request re Use of GP Funds to Pay Mortgages
 1. Defendants' Opposition to Ex Parte App
 2. Dyson Dec re Ex Parte App
 3. Schooler Dec re Ex Parte App
 4. Order Granting Ex Parte
- Fee Applications #5
 1. Receiver's 5th Fee Application
 2. Allen Matkins 5th Fee Application
 3. Schooler Opposition to Fifth Fee Applications
 4. Order Approving Fifth and Sixth Fee Applications
 5. Duffy's 2nd Fee Application
 6. Order Approving Fifth and Sixth Fee Applications
- 7th Interim Report
 1. Order Approving 7th Interim Report
 2. Schooler's Mtn for Reconsideration of Receiver's 7th Report
 3. Ps&As – Schooler's Mtn for Reconsideration of Receiver's 7th Report
 4. Schooler Dec – Schooler's Mtn for Reconsideration of Receiver's 7th Report
 5. Order Denying Schooler's Mtn for Reconsideration of Receiver's 7th Report
 6. Receiver's Response to Schooler's Motion for Reconsideration of Approval of 7th Interim Report
 7. SEC's Response to Schooler's Motion for Reconsideration
 8. Schooler's Reply in Support of his Motion for Reconsideration
- Fee Applications #6
 1. Receiver's 6th Fee Application
 2. Matkin's 6th Fee Application
 3. Duffy's 2nd Fee Application
 4. Notice of Hearing on Fee Applications
 5. Order Approving Fifth and Sixth Fee Applications
 6. Schooler's Opposition to 6th Fee Applications
 7. Receiver's Response to Schooler's Opposition
- Orders Regarding Summary Judgment Motions – GPs as Securities & Receivership
 1. SEC's May 9, 2014 Response to Court's Reconsideration of 8-16 Order
 2. Schooler's May 9, 2014 Response to Court's Reconsideration of 8-16 Order: Declaration
 3. SEC's May 23, 2014 Responsive Brief to Court's Reconsideration of 8-16 Order
 4. Schooler's May 23, 2014 Responsive Brief to Court's Reconsideration of 8-16 Order
- Defendant's Motion to Remove Western from Receivership

1. [Defendant's Motion to Remove Western from Receivership](#)
2. [Ps&As -- Defendant's Motion to Remove Western from Receivership](#)
3. [Receiver's May 9, 2014 Response to Schooler's Motion to Remove Western & Court's Reconsideration of its August 16 Order](#)
4. [SEC's May 9, 2014 Response to Schooler's Motion to Remove Western](#)
5. [Schooler's May 23, 2014 Reply in Support of Motion](#)
6. [Order Denying Motion to Remove Western from Receivership](#)
- [Receiver's 8th Interim Report](#)
 1. [Order Approving Receiver's 8th Interim Report](#)
- [Fee Applications #7](#)
 1. [Receiver's 7th Fee Application](#)
 2. [Allen Matkins 7th Fee Application](#)
 3. [Order on Seventh Interim Fee Applications](#)
 4. [Schooler's Opposition -- 7th Fee Application](#)
 5. [Schooler's Declaration -- 7th Fee Application](#)
 6. [Receiver's Reply -- 7th Fee Application](#)
 7. [Rodriguez's Declaration -- 7th Fee Application](#)
 8. [Order Granting Fee Applications](#)
- [Order on Reconsideration of Releasing the GPs from the Receivership](#)

Email Thomas C. Hebrank: wfp@ethreadvisors.com

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 - [SEC v. Louis V. Schooler and First Financial Planning Corp d/b/a Western Financial Planning Corp](#)
 - [SEC v. Copeland Wealth Management](#)
 - [SEC v. Alvin R. Brown, First Choice Investment, Inc., and Advanced Corporate Enterprises, Inc. d/b/a A-Corp Enterprises a/k/a ACorp Development a/k/a A-Corp Investment](#)
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EXHIBIT 3

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FW: Investor Votes

From: Alice Jacobson (alice@wcas.sdcoxmail.com)
Sent: Tue 8/26/14 12:57 PM
To: 'David Herman' (david@phildysonlaw.com)

From: Thomas Hebrank [mailto:thebrank@ethreadvisors.com]
Sent: Monday, August 25, 2014 3:30 PM
To: Beverly Schuler; alice@wcas.sdcoxmail.com
Subject: Investor Votes

Based on inquiries I have received from investors, please provide me with the name of the investor from each of the 86 general partnerships that has formally requested the vote that is now taking place.

Please provide this list by end of day tomorrow.

Thank you.

Thomas C. Hebrank, CPA, CIRA

E3 Advisors

401 West A Street, Suite 1830

San Diego, CA 92101

Tel (619) 567-7223

thebrank@ethreadvisors.com