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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

LOUIS V. SCHOOLER and FIRST
FINANCIAL PLANNING
CORPORATION, dba Western
Financial Planning Corporation,

Defendants.

CASE NO. 3:12-cv-2164-GPC-JMA

ORDER:

**(1) ADOPTING THE RECEIVER’S
PROPOSED INFORMATION
PACKET;**

[ECF No. 1023]

**(2) ADOPTING IN PART THE
RECEIVER’S REPORT AND
RECOMMENDATION**

[ECF No. 1056]

I. INTRODUCTION

On March 4, 2015, this Court entered an Order Keeping General Partnerships Under Receivership (the “GP Order”). (ECF No. 1003.) Pursuant to the GP Order, Federal Equity Receiver Thomas C. Hebrank (the “Receiver”) has filed a proposed information packet to be sent to the investors, (ECF No. 1023), and a Report and Recommendation Regarding Course of Action for General Partnerships, (ECF No. 1056). The history of this case is detailed in the GP Order. (*See* ECF No. 1003, at 2–5.)

II. INFORMATION PACKET

Having reviewed the Receiver’s filings, the Court approves the proposed

1 information packet. (*See* ECF No. 1023.) As the Court has previously noted the
2 presumably large cost of mailing, **IT IS HEREBY ORDERED** that:

- 3 1. The Receiver is directed to publish the informational packet to his website
4 on or before **May 29, 2015**;
- 5 2. To be sure investors are alerted to the packet's presence on the Receiver's
6 website, the Receiver is directed to mail postcards to each investor,
7 alerting investors to the informational packet's presence on the Receiver's
8 website, and, for each investor that the Receiver has an email address, the
9 Receiver is directed to email the investor a link to the informational
10 packet on the Receiver's website; and
- 11 3. The Receiver shall mail the postcards and send emails to the investors on
12 the same day the informational packet is published.

13 **III. REPORT AND RECOMMENDATION**

14 The Receiver divides the properties into three categories, A, B, and C. (ECF No.
15 1056.) The Receiver recommends different courses of action based on a property's
16 categorization, with several exceptions noted below. Category A properties can pay
17 their expenses through 2015 and the Receiver recommends not taking any action with
18 regards to these properties. (*Id.* at 3.) Category B properties require additional capital
19 to pay their 2015 expenses and that amount is less than the estimated net sale proceeds;
20 the Receiver proposes asking investors to contribute sufficient capital to pay for
21 expenses through 2016. (*Id.* at 3–4.) If a Category B property raises sufficient capital,
22 that capital will be collected and no other action will be taken other than paying
23 expenses. (*Id.* at 4) If a Category B property does not raise sufficient capital, all
24 collected capital will be returned and the property will be sold and proceeds distributed
25 to the property's investors. (*Id.*) Category C properties require additional capital to pay
26 their 2015 expenses and that amount is greater than the estimated net sale proceeds; the
27 Receiver proposes selling these properties and distributing the proceeds to the
28 properties' investors. (*Id.* at 5–6.)

1 There are several properties that are excepted from the recommended process for
2 these categories based on unique circumstances: Dayton IV, Santa Fe, and Yuma III.
3 (*Id.* at 3, 6.) These properties are underwater and the Receiver proposes surrendering
4 these properties to the mortgagee, assuming the forthcoming appraisals confirm that
5 these properties are underwater. (*Id.*)


6 Having reviewed the Receiver's Report and Recommendation, the Court
7 generally agrees with the Receiver as to Category A and B properties. However, while
8 the Court appreciates the Receiver's rationale with regards to Category C properties,
9 the Court believes the wiser course of action is to allow investors in Category C
10 properties to raise the additional capital if they are ready and willing to do so. Because
11 some properties include both GPs who can and GPs who cannot pay their expenses, the
12 Court also believes that it is appropriate to allow investors to raise capital to pay for
13 their cotenant GP's expenses in both Category B and C properties. Thus the Court
14 **ADOPTS IN PART** the Receiver's Report and Recommendation, (ECF No. 1056).
15 The Receiver is therefore directed to take all the steps outlined in his report with
16 regards to Category A properties. The Receiver is further directed to take all the steps
17 outlined in his report with regards to Category B properties, including capital calls for
18 the appropriate properties and the orderly sale process for the appropriate properties,
19 but also allow Category B property GPs to raise capital to cover their cotenant GPs if
20 the investors desire to do so. The Receiver is also directed to follow the same Category
21 B property process, outlined above, for Category C properties.

22 Finally, for underwater properties, the Receiver is directed to ballot the investors
23 whether they wish to retain or surrender the property. If less than a majority of the
24 votes cast wish to retain the property, the Receiver will follow the process he outlined
25 in his report with regards to surrendering underwater properties. For underwater
26 Category A properties where a majority of the votes cast wish to retain the property,
27 the Receiver will pay expenses as he normally would. For underwater Category B and
28 C properties where a majority of the votes cast wish to retain the property, the Receiver

1 will follow the process for raising capital as outlined above. If sufficient capital is
2 raised for an underwater Category B or C property, the Receiver will pay expenses as
3 he normally would. If insufficient capital is raised for an underwater Category B or C
4 property, the Receiver will follow the process he outlined in his report with regards to
5 surrendering underwater properties.

6 **IT IS SO ORDERED.**

7 DATED: May 12, 2015

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9 HON. GONZALO P. CURIEL
United States District Judge

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