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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 REGARDING INVESTOR  
HEARING**

**I. INTRODUCTION**

Before the Court is the issue of whether the approximately 86 General Partnerships (“GPs”) should remain in or be released from the Court-ordered receivership. (See ECF No. 629.) A hearing on this issue was conducted over two days, on October 10, 2014, and October 15, 2014. (ECF Nos. 790, 794.) In light of the issues raised, the Court finds that more information is needed to resolve this issue. Accordingly, the Court orders further briefing on this issue, detailed below.

**II. BACKGROUND**

On March 13, 2013, the Court ordered a preliminary injunction appointing Thomas C. Hebrank (the “Receiver”) as receiver over approximately 86 GPs formerly overseen by First Financial Planning Corporation d/b/a Western Financial Planning

1 Corporation (“Western”), Western itself, and other entities and property controlled by  
2 Western. (ECF No. 174.) On August 16, 2013, the Court ordered that the GPs would  
3 be released from the receivership upon the satisfaction of certain conditions (the  
4 “Release Order”). (ECF No. 470.) On October 8, 2013, defendants Western and Louis  
5 V. Schooler (collectively, “Defendants”) appealed the Release Order. (ECF No. 499.)  
6 On September 26, 2013, Defendants moved to stay the Release Order pending their  
7 appeal. (ECF No. 495.) On September 14, 2013, the Court granted Defendants’ motion  
8 to stay the Release Order. (ECF No. 513.) On November 15, 2013, the Securities and  
9 Exchange Commission (“SEC”) also appealed the Release Order. (ECF No. 514.)

10 On April 25, 2014, the Court held that the GPs were securities as a matter of law.  
11 (ECF No. 583.) On July 22, 2014, in light of finding that the GPs were securities, the  
12 Court reconsidered whether the GPs should be released from the receivership and  
13 ordered that the GPs should remain permanently in the receivership pending a hearing  
14 (the “Reconsideration Order”). (ECF No. 629.)

15 Following the Reconsideration Order, the Court allowed each GP to submit a  
16 brief on the issue and allowed each GP to speak in open court on October 10, 2014 (the  
17 “Investor Hearing”) to give the GPs and their investors due process. (*Id.* at 7–9.) Prior  
18 to the Investor Hearing, approximately 90 briefs and notices were filed, purportedly on  
19 behalf of approximately 66 GPs.<sup>1</sup> At the Investor Hearing, all investors who had filed

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23 <sup>1</sup>These GPs were, in alphabetical order: ABL, Antelope Springs, Big Ranch,  
24 BLA, Borderland, Bratton View, Cactus Ridge, Checkered Flag, Comstock, Crystal  
25 Clearwater, Dayton Valley II, Desert View, Fairway, Falcon Heights, Free Trade,  
26 Galena, Gold Ridge, Grand View, Green View, Hidden Hills, High Desert, Honey  
27 Springs, Horizon, International, Jamul Meadows, Lahonton, Lyons Valley, Mesa View,  
28 Mohawk Mountain, Mountain View, Nevada View, Night Hawk, North Springs,  
Ocotillo View, Osprey, P-39 Aircobra, Painted Desert, Park Vegas, Pine View,  
Production, Pueblo, Rail Road, Rainbow, Rawhide, Reno, Reno Vista, Road Runner,  
Rolling Hills, Sierra View, Silver City, Silver State, Sky View, Sonora View, Spanish  
Springs View, Spruce Heights, Steamboat, Suntec, Tecate, Twin Plant, Valley Vista,  
VIA 188, Victory Lap, Vista Rose, Vista Tecate, and Wild Horse. (See ECF Nos.  
663–775.)

1 a request to speak were allowed to speak and approximately 32 investors spoke.<sup>2</sup>

2 **III. DISCUSSION**

3 Having reviewed the briefs and comments of the investors and the concerns that  
4 they raised, as well as the briefs and comments of the parties, the Court finds that it is  
5 appropriate to order further briefing on the issue. The GPs vary significantly with  
6 different amounts of cash on hand, different amounts owed on mortgages taken out by  
7 Western on GP properties, different GP property valuations, different amounts owed  
8 to Western, and different potential issues affecting GP properties, among other  
9 differences. (See ECF No. 203-2.) In light of the varying circumstances of the GPs, the  
10 Court finds that an individualized assessment of the financial state of and other factors  
11 surrounding each GP is necessary to decide what actions the Court should take to  
12 properly conserve the assets of the GPs and the investors.

13 **IV. CONCLUSION AND ORDER**

14 Based on the foregoing, **IT IS HEREBY ORDERED** that:

- 15 1. If the Receiver receives notice of any offers to purchase GP property, the  
16 Receiver is ordered to notify the Court ex parte within **one (1) business**  
17 **day** and the Court will conduct an expedited briefing process regarding  
18 the offer;
- 19 2. The Receiver is ordered to provide the Court with information regarding  
20 potential mineral rights, if any, on the property that remains owned by the  
21 Gold Ridge, Grand View, Rolling Hills, and Sky View GPs;
- 22 3. The Receiver is ordered to submit an updated report and recommendation  
23 regarding the GPs on or before **October 31, 2014**.
- 24 3. The Receiver's updated report shall include, for each GP:

25 \_\_\_\_\_  
26 <sup>2</sup>These investors were, in speaking order: Dennis Gilman, Gregory Post, Curtis  
27 Johnson, Leslie Campbell, Stephen Finn, Arthur Rocco, Takuyaki Chubachi, Keith  
28 Pedersen, Scott Gessner, Randall Alessi, Lars Boeryd, George Klinki, Bruce Case,  
Gene Fantano, Jaleh Firooz, Elena Gomez, Ronald Goodwin, Henrik Jonson, William  
Loeber, David Luke, Maurice McNeil, Mark Totman, and Kathy Wall. (See ECF No.  
790.)

- 1 a. The amount, if any, owed by the GP to Western and the associated  
2 payment schedule;
- 3 b. The amount, if any, Western owes on a mortgage for that GP's  
4 property and the associated payment schedule;
- 5 c. The amount, if any, of cash on hand;
- 6 d. The amount and schedule of any previously charged fees and costs  
7 to the GP, including but not limited to: property taxes, insurance  
8 premiums, administrative fees, and accounting fees;
- 9 e. The amount and schedule of any projected fees and costs to the GP,  
10 including but not limited to: property taxes, insurance premiums,  
11 administrative fees, and accounting fees
- 12 f. Notice of anything that would significantly complicate the ability  
13 of a GP to manage its property, including but not limited to:  
14 tenants, water rights, mineral rights, and legal proceedings;
- 15 g. The amounts, if any, and schedule of operational bills sent to a  
16 GP's investors and the amount actually received;
- 17 h. The amount, if any, of Western's interest in the GP and the  
18 valuation of that interest; and
- 19 i. Any other information that the Receiver believes is appropriate to  
20 consider regarding the state of a GP and its property.
- 21 4. The Receiver's recommendation, based on his analysis of the financial  
22 state of each GP as well as any other complicating factors, shall assess  
23 whether it is prudent to release or maintain the receivership in relation to  
24 each GP. The Receiver's recommendation shall include the following  
25 information:
  - 26 a. The process and conditions, if any, for releasing a GP from the  
27 receivership and the reasons for such process and conditions, if  
28 any;

- b. The basis for the Court having authority to impose such conditions, if any;
- c. Which GPs, if any, the Receiver believes can be released from the receivership in the near future;
- d. Which GPs, if any, the Receiver believes can be released from the receivership if certain conditions are met and what those conditions are;
- e. Which GPs, if any, the Receiver believes are not and will not be in a condition to be released from the receivership, the basis for such opinion, and what the Receiver proposes should be done to conserve the assets of those GPs; and
- f. Any other information that the Receiver believes is appropriate to consider regarding releasing or maintaining the receivership over any of the GPs.

5. Any response by the parties to the Receiver's forthcoming report and recommendation shall be filed on or before **December 5, 2014**. No replies will be permitted.


6. The Court also finds it appropriate to seek investor input regarding the Receiver's forthcoming report and recommendation. Accordingly, the Court will allow each individual investor to submit a response to the Receiver's report and recommendation. The Court recommends that any investors who agree with another investor's position should file a single joint response and indicate all investors who sign on to that response rather than filing multiple individual responses. While the Court appreciates investor input, the Court notes that the investors should file joint responses if at all possible so as to avoid submitting largely identical filings as has occurred in the past. Any investor responses to the Receiver's report and recommendation shall be filed on or before

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**December 5, 2014;**

7. A hearing on the Receiver’s forthcoming report and recommendation is set for **December 17, 2014, at 1:30 p.m.** in Courtroom 2D;
8. The Court directs the Receiver to, within **five (5) business days** of this order being filed, publish notice of this order and a copy of this order to his website, (<http://www.ethreadvisors.com>), to notify investors; and
9. The Court directs the Receiver to, on the same day he files the forthcoming report and recommendation, email each investor for whom he has an email address on file and publish notice to his website alerting investors as to the procedures set forth above allowing investors to comment upon the forthcoming report and recommendation.

DATED: October 17, 2014

  
HON. GONZALO P. CURIEL  
United States District Judge