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BRUCE TABER, D.D.S.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION – LOS ANGELES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CHARLES P. COPELAND, COPELAND WEALTH CORPORATION, AND COPELAND WEALTH MANAGEMENT, A REAL ESTATE CORPORATION,

Defendants.

CASE NO.: 2:11-cv-08607-R-(DTBx)

BRUCE TABER, D.D.S.'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION BY NON-PARTY NATIONAL CREDIT UNION ADMINISTRATION BOARD AS LIQUIDATING AGENT FOR ORDER APPROVING AGREEMENT WITH RECEIVER FOR THE ABANDONMENT AND FORECLOSURE OF CERTAIN REAL PROPERTY

Date: June 3, 2013
Time: 10:00 am
Courtroom: 8, 2nd Floor
Judge: Hon. Manuel L. Real

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Investor BRUCE TABER, D.D.S., ("Taber"), an investor in Copeland Properties, 8, a Limited Partnership ("CP8"), a victim of fraud, and an interested party to the outcome of the motion brought by the National Credit Union Administration Board, acting in its capacity as the Liquidating Agent for Telesis Community Credit Union ("NCUA") (the "Motion"), submits the following memorandum of points and authorities in opposition to the approval of the NCUA's agreement with the Receiver for the abandonment and foreclosure of the subject property located at 123 Great Bear Rd., Volney, New York.

I.

INTRODUCTION

The vague and incomplete settlement terms proposed by the National Credit Union Administration Board ("NCUA") in its Motion, if approved by the Court, will result in the further victimization of Bruce L. Taber, D.D.S. Dr. Taber is one of the deceived investors that fell prey to the Ponzi scheme operated by Charles and Donald Copeland. Dr. Taber not only stands to lose the $319,000 he invested in Copeland Properties 8, L.P. ("CP8"), but if the settlement terms proposed by the NCUA are approved without modification, Dr. Taber will be the sole remaining defendant in a foreclosure action that may generate a deficiency judgment against him as high as $1.3 million or more. Dr. Taber finds himself in this position *only* because –unbeknownst to him—he was made the sole guarantor of the $4.2 million dollar loan made by Telesis Community Credit Union to CP8 in 2005. As the Court is aware, Dr. Taber is not the only investor that has learned far too late that he was made the unknowing guarantor of Copeland's limited partnership investments.[1]

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[1] See, e.g. The Declaration of Jeanne Kohut in Support of Opposition of John J. Kohut, M.D., and Joannne Kohut to Motion for and Order Approving Agreement Between Receiver and Creditor

Telesis should not be allowed to pursue a deficiency judgment against Dr. Taber based upon the fraudulently obtained Guaranty asserted in the New York Action. Indeed, Telesis issued the $4.2 million to CP8 in June of 2005, although it never received authority from Dr. Taber to access his financial information, never communicated with Dr. Taber about the loan or the guaranty, and never attempted to disclose the existence of the guaranty to Dr. Taber – until it filed suit against him following CP8's default on the loan. Further, at the time Telesis approved the CP8 loan Telesis was well aware of the fact that Dr. Taber "didn't bring much" to the loan as a guarantor. The NCUA, standing in the shoes of Telesis, should not now be allowed to benefit from the equity jurisdiction of the Court.

In addition, after Charles Copeland admitted that he deceived Dr. Taber with respect to the existence of the Guaranty, he agreed, along with Don Copeland and Copeland Wealth Management, a Real Estate Corporation ("Copeland Realty"), to fully indemnify Dr. Taber for any and all harm arising from any claims made with respect to the Guaranty. The promise to indemnify Dr. Taber, a promise that obligates one of the Receivership entities, will be rendered virtually meaningless if the settlement terms proposed by the NCUA are approved by this Court.

Dr. Taber asks the Court to approve the settlement only on the condition that the NCUA agrees to release Dr. Taber from any liability under the Guaranty, and take no further action against him with respect to the Guaranty or the loan to CP8. In the alternative, Dr. Taber asks the Court to exercise its equitable authority to deny the NCUA's motion on the grounds that it harms Dr. Taber as an investor and victim of the fraudulent scheme of Charles Copeland. Dr. Taber further asks that

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Regarding Disposition of Certain Commerical Property Within Jursdiction of Receiver, (Doc. 167-2)

the Court retain jurisdiction over all of the parties to the CP8 loan and Guaranty, to resolve the issue of enforceability of the Guaranty.

II.

BACKGROUND

Dr. Taber is 67 years old. (Declaration of Bruce Taber, D.D.S. in Oppostion to Motion for Order Approving Agreement with Receiver ("Taber Dec."), ¶ 4) He is a practicing dentist in Loma Linda, California. *Id.* He opened his practice in 1988. *Id.* He lives in Redlands, California with his wife Maureen. Early retirement is no longer an option for Dr. Taber.

Dr. Taber first met Charles Copeland in approximately 1992, when Mr. Copeland was affiliated with another accounting practice. (Taber Dec., ¶ 5) In 1993, Mr. Copeland opened his own accounting practice and Dr. Taber continued to give him accounting business related to both his dental practice and his personal finances. (Taber Dec., ¶ 6) The relationship continued for several years.

In 2005, Bruce and Maureen Taber realized a gain from the sale of real estate, and asked Mr. Copeland for advice regarding how to invest the proceeds. (Taber Dec., ¶ 7) At that time, Mr. Copeland told Dr. Taber about his practice of forming limited partnerships for the purpose of buying and managing commercial real properties as investments for his accounting clients. *Id.*

Mr. Copeland presented a prospectus with photographs and financial projections for a commercial property identified as 123 Great Bear Road, in Volney New York. (Taber Dec., ¶ 8) The property was identified by Mr. Copeland and his son, Donald Copeland, as a possible acquisition by CP8. *Id.* Dr. Taber was also shown a binder of materials identifying other limited liability entities that Mr. Copeland had formed. *Id.*

Charles Copeland and his son promised Dr. Taber that if he invested money in the property by purchasing membership units in CP8, his other assets would be

protected from loss. Mr. Copeland also assured Dr. Taber that his financial risk would be limited to only the amount of money that he invested through CP8. *Id.* At no time did Mr. Copeland or his son ever explain to Dr. Taber the risks of their investment scheme. Nor was Dr. Taber ever instructed to seek separate and independent investment advice or legal counsel in connection with the CP8 investment. *Id.* In addition, Dr. Taber was never told that he would be used as the sole guarantor of debts incurred by CP8 in connection with the purchase of the New York property. *Id.* To the contrary, Dr. Taber was repeatedly assured that he was protected from any risk of loss beyond the amount he invested in CP8. *Id.*

Based upon the above representations and omissions, Dr. Taber invested $319,000 through the purchase of a membership interest in CP8. (Taber Dec., ¶ 10) (Dr. Taber also invested approximately $252,000 in a second limited partnership, CP18. That investment is unrelated to the New York Property.)

Years after investing in CP8, Dr. Taber began to learn of facts that led him to believe that problems existed with the investment in CP8. At or about late 2009, or early 2010, Dr. Taber began to receive telephone calls and correspondence telling him that loan payments were due on the property owned by CP8 and the loan was in default. (Taber Dec., ¶ 11) He was then served with a copy of a Summons and Complaint. *Id.* Not understanding that his name appeared on the Guaranty, Dr. Taber tried repeatedly to speak with Charles Copeland about why he would be personally named in a lawsuit arising from the loan to CP8. Ultimately, Charles Copeland met with Dr. Taber where he admitted that, unbeknownst to Dr. Taber, he was the sole guarantor of the CP-8 loan. *Id.*

Dr. Taber has no idea how his purported signature came to appear on the Guaranty related to the loan made by Telesis Community Credit Union to CP8. (Taber Dec., ¶ 12) He was never told that he was going to be identified to lenders as a potential guarantor. *Id.* He never gave permission to CP8, or its managing

partner, Copeland Realty, to disclose his personal financial information to any lender. *Id.* He was never contacted by anyone at Telesis Community Credit Union about their consideration of him as a guarantor. *Id.* He was never provided with a closing statement, or any loan documentation of any kind at or before the time the loan was made. *Id.* In fact, Dr. Taber was unaware of the *existence* of the Guaranty until after he was served with the Complaint in the New York Action.

In March of 2010, because Charles Copeland admitted that they failed to tell Bruce about the existence of the Guaranty, both Charles and Donald Copeland signed an "Indemnification and Tolling Agreement." (Taber Dec., par 13 and Exhibit A) In that Agreement, Charles and Donald Copeland agreed, on behalf of Copeland Realty and on their own individual behalves, to fully indemnify Dr. Taber with respect to all claims asserted against him relating to the New York action and the Guaranty. *Id.*

If Dr. Taber had known that he was going to be the guarantor of the loan made by Telesis to CP8, he would not have invested any money in CP8. (Taber Dec., ¶ 14) If he had been contacted by Telesis at the time they issued the loan to CP8, he would have been made aware of the Guaranty and would have been able to take steps to protect himself from financial harm. *Id.* Telesis failed to communicate with him at any time during their loan application process, or at any time thereafter, until they sued Dr. Taber in New York. *Id.*

In its moving papers, NCUA incorrectly alleges that on or about June 14, 2005, Dr. Taber "made and delivered to TELESIS, as further inducement for lending to... [CP8], an unconditional Guarantee ("Guaranty") personally guaranteeing payment of the Note." (Houchen Dec., ¶ 8) However, as set forth above, Dr. Taber had no knowledge of the Guaranty in 2005, or at any time prior to being served with the summons and complaint in the New York Action.

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In addition, the NCUA's claim that it was "induced" to lend CP8 $4.2 million dollars because of Dr. Taber's purported Guaranty is simply not true. In a memorandum prepared by Mr. Houchen in 2005, discussing the terms of the loan to CP8, he candidly admits that, in any event he [Dr. Taber] doesn't bring much to the guarantee." (Shaughnessy Dec., ¶ 3, and Exhibit 19 to the Deposition of L. Houchen) Similarly, Telesis fully understood that Dr. Taber was no expert on commercial real estate investment, and was relying solely on Charles and Donald Copeland in connection with the investment. (Shaughnessy Dec., ¶ 4, and Exhibit 23 to the Deposition of L. Houchen) In a document prepared for the benefit of Telesis in connection with the loan to CP8, it is specifically noted that, "The guarantor is a dentist and an Investor in real estate. It is apparent that he is relying on the expertise of Copeland for the evaluation of the subject property as a prudent investment." *Id.* If Telesis knew Dr. Taber brought very little to the Guaranty when they issued the loan proceeds to CP8, and if they knew Dr. Taber was relying solely upon Copeland for advice regarding suitability of the property as an investment, then in equity Telesis should not be allowed to freely pursue Dr. Taber for a deficiency judgment in this case, based upon a Guaranty obtained by fraud.

III.

ARGUMENT

A. The Motion is Fundamentally Flawed Because the Terms of the Proposed Agreement Are Not Before the Court.

The NCUA's Motion is fundamentally flawed because the proposed agreement between the Receiver and the NCUA is not before the Court. The Motion merely summarizes some of the terms. There is no justification for why the Agreement that is the subject of the Motion is not part of the record and properly before the Court and Dr. Taber, as an interested party. The Motion is silent about what the NCUA intends when it states an intention to proceed with the action under

New York law.

In addition, the Motion makes the unsupported assertion that the property value falls well below the amounts due and owing under the loan. Although the Motion references an appraisal report, that document has not been disclosed to the Court, or to Dr. Taber as an interested party to the proceeding. The Motion makes no argument as to why this information is confidential or subject to in camera review only. Certainly, if Dr. Taber is to be impacted by a deficiency claim, he should be entitled to review the document and respond to it before the Court rules on the NCUA's Motion.

B. District Courts Have Broad Authority and Wide Discretion to Determine the Appropriate Relief in an Equity Receivership.

A 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." *S.E.C. v. Capital Consultants, LLC,* 397 F.3d 733, 738 (9th Cir. 2005), citing *SEC v. Hardy,* 803 F.2d 1034, 1037 (9th Cir.1986). The district court has "broad powers and wide discretion to determine the appropriate relief in an equity receivership." *SEC v. Lincoln Thrift Ass'n,* 577 F.2d 600, 606 (9th Cir.1978). "The basis for this broad deference to the district court's supervisory role in equity receiverships arises out of the fact that most receiverships involve multiple parties and complex transactions." *Hardy, supra,* 803 F.2d at 1037.

Based upon the broad equitable authority to administer and supervise an equity receivership, the Court has authority to disapprove an agreement entered into by a Receiver when the agreement does not adequately protect an investor's rights. *S.E.C. v. Capital Consultants, LLC, supra,* 397 F.3d at 738-739. Furthermore, a district court's decision concerning the supervision of an equitable receivership is only reviewable for abuse of discretion. *Commodity Futures Trading Comm'n v. Topworth Int'l, Ltd.,* 205 F.3d 1107, 1115 (9th Cir.1999). In this case, Dr. Taber

asks the Court, siting in equity over an equitable receivership, to craft an equitable result to protect Dr. Taber, the direct victim of the Ponzi scheme that necessitated the SEC's action.

C. The NCUA Has Not Shown How the Proposed Agreement Is An Equitable Result for the Parties Identified in the New York Action.

Notably, the NCUA's motion to approve the agreement with the receiver in this case is deceptively silent as to the potential liability that Dr. Taber faces as the sole remaining defendant in the New York action. In short, the NCUA and the Receiver agreed that the NCUA will be permitted to continue the New York Action, to sell the property, and to proceed under New York law, provided that no judgment entered in New York may be executed, or subsequent actions taken against, CP8 or Copeland Realty. Under New York Law, the NCUA has a right to pursue Dr. Taber under the Guaranty to attempt to recover a deficiency judgment.[2]

In this case, liability against Dr. Taber would only be premised upon a putative Guaranty that was secretly obtained by Charles Copeland and/or his entities through fraud and deceit. In addition, liability would be assessed against Dr. Taber *alone* per the agreement of the NCUA and the Receiver, even though one of the Receivership entities, Copeland Realty, agreed to indemnify Dr. Taber from harm arising from both the New York action and the Guaranty. (Taber Dec., Exh. A, Indemnity Agreement, ¶ 2, p. 2) This indemnity agreement arose following Mr. Copeland's admission to Dr. Taber that he was never told about the existence of the Guaranty.

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[2] The relevant provision is contained in New York's Real Property Actions and Proceedings Law §1371 (cited N.Y. RPAPL), which provides that a person who is liable for the debt secured by a mortgage that is named and served in the foreclosure action may be pursued for any deficiency after a sale so long as a deficiency judgment proceeding is commenced within the time period provided and in accordance with the rule.

In addition to the NCUA's lack of candor regarding the pursuit of a deficiency judgment, its Motion is not forthcoming with respect to the actual *amount* in Guarantor liability that it may seek under New York law. Instead, the NCUA vaguely concludes that the amount due and owing under the loan on the Property "far exceeds the value of the Property" the motion is deceptively silent as to any specific amount which the NCUA may claim it is owed under the loan, and which it will seek to recover under the Guaranty. The amount is not stated in the motion. In addition, as noted above, the NCUA's motion fails to identify the appraisal value that it claims to be applicable to the Property. The difference between these two amounts would presumably be the amount that the NCUA would seek to recover from Dr. Taber alone, because the agreement for which it seeks approval would bar the NCUA from pursuing the Copeland entities. The amount it will try to seek, however, can be gleaned from the Complaint in the New York Action.

The Amended Verified Complaint filed by Telesis on January 6, 2010, alleges the sum of $4,263,247.26 due and owing as of September 19, 2009. (NCUA's Exhibit A, p. 4, ¶ 20) In addition, the NCUA asserts a claim for interest accruing at $1,129.86 per day. Thus, the NCUA's claim for interest alone, accruing from September 19, 2009 through May 13, 2013 amounts to $1,512,882.54. (1,339 days x $1,129.86) Thus, it appears the NCUA will claim an amount owed that exceeds $5,776,129.80.

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Even if the deficiency between the principal balance ($4,263,247.26) and the market value of the property is nominal, it is likely that the NCUA will pursue Dr. Taber—and only Dr. Taber—for the recovery of amounts well in excess of $1 million.[3] Further, the NCUA intends to do so even though Telesis knew from the outset that Dr. Taber did not bring much to the Guaranty, and was relying solely upon Charles Copeland for the investment. Assuming this is what the NCUA intends to pursue once it obtains an order lifting the stay and permitting it to "proceed under New York law" such an outcome would cause financial devastation to Bruce and Maureen Taber, investors that the Receiver has a duty to protect.

D. Equity And Due Process Do Not Support an Order that Would Leave Dr. Taber as the Sole Defendant Facing a Deficiency Judgment.

As noted above, based upon a District Court's broad equitable authority to administer and supervise an equity receivership, the Court has authority here to disapprove the agreement between the Receiver and the NCUA, because the agreement does not adequately protect Dr. Taber's rights. *S.E.C. v. Capital Consultants, LLC, supra,* 397 F.3d at 738-739 (court denied the receiver's motion to enforce a compromise agreement because the agreement was contrary to the interests of a defrauded investor the receiver had a duty to protect).

Here, the purported Agreement between the Receiver and the NCUA is not before the Court. Dr. Taber has had no opportunity to review its terms and consider the consequences of the Court order approving the Agreement. Instead, the Court and Dr. Taber are left to surmise the intention of the NCUA when it states that it intends to proceed under New York law.

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[3] A recent online search of the address for the Property shows that it was listed for sale with an asking price of just $2,900,000. (Shaughnessy Dec., ¶ 6)

Dr. Taber is a defrauded investor and a victim of the Copeland's actions in a variety of transactions, including the New York Property and the Guaranty. Clearly Dr. Taber has a vested interest in knowing the terms of the Agreement and what effect, if any, it may have on him, and his wife, should the Court grant the Motion and remove the New York Property from the receivership. Neither Dr. Taber nor the Court should be forced to speculate as to any adverse effect this Agreement and removal of the Property will have on Dr. Taber. Due process requires adequate notice. In this case, the Motion does not provide adequate notice because the Agreement is not before the Court, and the full impact of the Agreement on investors such as Dr. Taber is not addressed. *S.E.C. v. American Capital Investments, Inc.*, 98 F. 3d 1133, 1146 (9th Cir. 1996) (abrogated on other grounds in *Steel Co. v. Citizens for a Better Environment* (1998) 523 U.S. 83) (summary proceedings satisfy due process so long as there is adequate notice and an opportunity to be heard). For this reason alone, the Court could act within its discretion to deny the Motion.

E. The Receiver Cannot Enter Into A Transaction To The Detriment of Defrauded Investors.

In *S.E.C v. Vescor Capital Corp.*, 599 F.3d 1189 (10th Cir. 2010), the Tenth Circuit addressed the duties of a receiver when the SEC has become involved in a Ponzi scheme. The court emphasized the receivership's obligations to look out for the best interest of the defrauded investors. The court noted:

> The receiver's actions to this point do not invalidate or otherwise impact any party's perfected security interest. Rather, '[t]he [r]eceiver is charged with protecting the investments of all the ...investors...The best way to maintain the status quo is to permit him to carry on with his investigation.' (Citation) (p. 1195)

The court also stated:

> And, in a case involving a Ponzi scheme, the interests of the Receiver are very broad and include not only

> protection of the receivership res, but also protection of defrauded investors and considerations of judicial economy. This is a corollary of the district court's power to enter a blanket stay. This power is broader than the court's authority to grant or deny injunctive relief under Fed.R.Civ.P. 65 (Citation) (p. 1197)

Here, the NCUA's Motion is silent on the effect of the court's approving the Agreement on Dr. Taber, a defrauded investor. Currently, Dr. Taber and the other investors are protected under the scope of the October 19, 2011 Order imposing the stay on litigation. (Doc. 3) Based on the NCUA Motion, it appears the Agreement will impact the protection afforded to Dr. Taber under the Order. Clearly, the Receiver must take the defrauded investors' interests into account in handling the receivership. Here, the NCUA's Motion says nothing, leaving Dr. Taber to surmise about what may happen when the NCUA is given the right to proceed under New York law.

As discussed above, the Motion fails to address whether the Agreement provides a full release of any deficiency claim against Dr. Taber. Dr. Taber suspects that it does not. Regardless, the impact of the Motion on future claims against the receivership estate and the investors is a material consideration that must be addressed in the Agreement and any court order approving the Agreement.

In this case, Dr. Taber holds an Indemnity Agreement as against not only Mr. Copeland, but also Copeland Realty, one of the entities that is part of the receivership estate. As an investor and a victim of fraud, Dr. Taber is unable to ascertain what impact the Agreement between the NCUA and the Receiver will have on his ability to recover under the Indemnity Agreement, should the NCUA obtain a deficiency judgment against him under the Guaranty.

A secured creditor such as the NCUA should not be permitted to step ahead of the other creditors of the receivership estate—and it certainly should not be allowed to step ahead of an investor victim—and recover a large portion of its

claim by recovering the collateral securing its loan and at the same assert a large deficiency claim. In *S.E.C. v. Beyers,* 637 F. Supp. 2d 166, 183 (S.D. N.Y. 2009) the court approved a receiver's distribution plan that limited secured creditors' recovery to their collateral. The receiver argued that because secured creditors would receive a greater percentage of their claims than defrauded investors, it would be inequitable to permit the secured creditors to recover more. The *Beyers* court concluded it was well within the Court's equitable authority to approve the plan's bar on secured creditors enforcing deficiency claims. *Id.*

Similarly, in *S.E.C. v. Madison Real Estate Group, LLC,* 647 F.Supp.2d 1271 (D. Utah 2009), the S.E.C. filed a motion to modify the stay of litigation to clarify that the order applied to collection actions against investors' personal obligations that the investors executed in connection with the defendants' fraudulent scheme. In seeking the order, the S.E.C. argued that many of the investors, and others whose investment in the Madison fraud resulted in them being named as limited partnerships, had incurred personal financial obligations by signing recourse loans or as guarantors on the loans which financed the purchase of the properties or have incurred other financial obligations related to the operation of the properties. The S.E.C. pointed out that these obligations were the product of the fraudulent conduct and promises of the defendants. Therefore, the protections of the Stay should be extended to the investors for such obligations.

The S.E.C. further argued the district court's power to issue the modification of the stay was based on the Court's well-established power to issue all writs necessary or appropriate in aid of their respective jurisdictions, including the power to stay the prosecution of lawsuits. The receiver in *Madison Real Estate Group* did agree to lift the stay to allow secured creditors to foreclose on certain receivership properties. However, all orders issued in connection with the case precluded secured creditor enforcement action against the investor guarantors. *Id.* at p. 1286.

A District Court supervising an equity receivership estate has authority to grant ancillary relief necessary to accomplish complete justice. *F.T.C. v. Pantron I Corp.*, 33 F.3d 1088, 1102 (9th Cir. 1994). Under S.E.C. v. *Beyers*, 637 F. Supp. 2d 166, 183 (S.D. N.Y. 2009) and *S.E.C. v. Madison Real Estate Group, LLC,* 647 F. Supp. 2d 1271 (D. Utah 2009), such ancillary relief includes orders to preclude the enforcement of deficiency claims against investors.

Here, the Order entered by the Court on October 19, 2011 bars creditors such as U.S. Bank from pursuing claims against the investors. (Doc. 3) The NCUA Agreement that is the subject of this Motion is not before the Court. Therefore, Dr. Taber and the other parties are left to speculate as to whether appropriate safeguards were built into the Agreement to protect Dr. Taber, as a victim of investment fraud, from further litigation prosecuted by the NCUA. Given the Motion's silence on the issue, and the fact that the NCUA will not disclose the appraised value of the New York Property in the Motion, it appears likely that appropriate safeguards for Dr. Taber were not factored into the Agreement and it should not be approved, unless the Court provides for adequate protections by the exercise of its broad equitable powers, as in *Madison Real Estate Group, supra.*

IV.

CONCLUSION

For all of the reasons set forth above, Dr. Taber respectfully requests that the Court approve the NCUA's proposed settlement terms only on the condition that the NCUA will release Dr. Taber from guarantor liability and take no further action to enforce the terms of the Guaranty. In the alternative, Dr. Taber asks that the court deny the NCUA's motion and instruct the receiver to negotiate together with the NCUA and Dr. Taber, to attempt a global resolution that protects Dr. Taber, while retaining jurisdiction over the parties regarding the enforceability of the Guaranty. As the victim of the Copeland's Ponzi scheme and the holder of an

Indemnity Agreement as against the Receivership estate, Dr. Taber should not be facing the financial devastation that may arise if the NCUA is permitted to continue its foreclosure action without restraint.

Respectfully submitted,

DATED: May 13, 2013

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION – LOS ANGELES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CHARLES P. COPELAND, COPELAND WEALTH CORPORATION, AND COPELAND WEALTH MANAGEMENT, A REAL ESTATE CORPORATION,

Defendants.

CASE NO.: 2:11-cv-08607-R-(DTBx)

DECLARATION OF BRUCE TABER, D.D.S. IN OPPOSITION TO MOTION BY NON-PARTY NATIONAL CREDIT UNION ADMINISTRATION BOARD AS LIQUIDATING AGENT FOR ORDER APPROVING AGREEMENT WITH RECEIVER FOR THE ABANDONMENT AND FORECLOSURE OF CERTAIN REAL PROPERTY

Date: June 3, 2013
Time: 10:00 am
Courtroom: 8, 2nd Floor
Judge: Hon. Manuel L. Real

I, BRUCE TABER, D.D.S., declare:

1. I am over the age of eighteen (18) and am not a party to the above-entitled action.

2. I have personal knowledge of the matters set forth herein, except as to those matters stated upon information and belief, and as to those matters, I believe them to be true. If called upon as a witness, I could and would competently testify thereto.

3. I make this Declaration in Opposition to the "Motion for Order Approving Agreement with Receiver for the Abandonment and Foreclosure of Certain Real Property," related to real property located in Volney, New York that purchased by Copeland Properties 8, L.P., a California limited partnership ("CP8"). I am a resident of the City of Redlands, State of California.

4. I am 67 years old, and a dentist practicing in Loma Linda, California. I opened my dentistry practice on July 7, 1988, after serving as the Chief of Dentistry, Riverside General Hospital for approximately two years.

5. I first met Charles ("Chuck") Copeland in approximately 1992. At that time, Chuck Copeland was a Certified Public Accountant affiliated with the Soren McAdam Christianson, CPA firm, which was the accounting firm I retained for my dentistry practice. Work performed on my behalf by Soren McAdam Christianson was performed by Chuck Copeland.

6. In approximately 1993, Chuck Copeland left Soren McAdam Christianson and started his own accounting firm. I moved my work from Soren McAdam Christianson to Chuck Copeland's new practice. Chuck Copeland continued to provide accounting services for my dental practice and my personal finances. Eventually, Jeanne Minnerly joined Chuck Copeland's practice and she also provided personal and business accounting services for me, my wife Maureen Taber, and my dental practice.

7. In 2005, my wife and I sold some real estate, realizing a gain. I asked Chuck Copeland for advice concerning investment of the sale proceeds. At that time, Chuck Copeland told me about his practice of forming limited partnerships for the purpose of buying and managing real properties as investments for his accounting clients.

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8. At or about this same time, I was shown a prospectus with photographs and financial projections for a commercial property identified as 123 Great Bear Road, in Volney New York. The property was identified by Chuck and Don Copeland as a possible acquisition by CP8. Chuck and his son Mr. Donald ("Don") Copeland also showed me a binder containing photographs and financial projections for other properties held by other limited liability entities that they had formed. They also displayed photographs of several properties held by the various limited liability entities, on the walls of the office.

9. Both Chuck and Don Copeland promised me that if I invested in the property by purchasing membership units in CP8, my other assets would be protected from loss, and my financial risk would be limited to only the amount that I invested through my purchase of the CP8 ownership interest. At no time did Chuck or Don Copeland ever explain to me the risks of their investment scheme. Nor was I ever instructed to seek separate and independent investment advice and/or legal counsel in connection with the investment in CP8. Further, I was never told that I would be used as the sole guarantor of debts incurred by CP8. To the contrary, I was assured by both Chuck and Don Copeland that I was protected from any risk of loss beyond the amount that I invested through the purchase of membership units in CP8.

10. Based upon the representations of Chuck and Don Copeland, in 2005, I invested about $319,000 through the purchase of a membership interest in CP8.

11. In late 2009 or early 2010 I first learned of facts that led me to believe that problems existed with my investment in CP8. At that time, I received telephone calls and correspondence from someone in New York telling me that the loan payments were due on the property owned by CP8 and the loan was in default. Following that exchange I was served with a copy of a Summons and Complaint.

After several attempts, I was able to speak with Chuck Copeland. Copeland divulged that, unbeknownst to me, he had caused me to be identified as a guarantor of the CP-8 loan.

12. I have no idea how my purported signature came to appear on a guaranty of the loan made by Telesis Community Credit Union to CP8. I was never told that I was going to be identified to a lender as a potential guarantor. I never gave permission to CP8, or its managing partner, Copeland Realty, to disclose my personal financial information to a lender. I was never contacted by anyone at Telesis Community Credit Union about their consideration of me as a guarantor. I was never provided with a closing statement, or loan documentation of any kind at or before the time the loan was made. In fact, I was unaware of the existence of the guaranty until after I was served with the lawsuit.

13. In March of 2010, Chuck Copeland and Don Copeland signed an "Indemnification and Tolling Agreement" a true and correct copy of which is attached to my declaration as **Exhibit A**. They signed this Agreement after Chuck Copeland admitted to me that he failed to tell me about the existence of the Guaranty. This admission was made in front of me and my prior attorney. In the Agreement, Chuck and Don Copeland agreed on behalf of Copeland Wealth Management, a Real Estate Corporation (i.e. Copeland Realty), and on their own individual behalves, to fully indemnify me, and hold me harmless, with respect to all claims asserted against me relating to the action filed in New York, and the Guaranty.

14. If I had known that I was going to be the guarantor of the loan made by Telesis to CP8, I would not have invested any money in CP8. If I had been contacted by Telesis at the time they issued the loan to CP8, I would have been made aware of the guaranty and would have been able to take steps to protect

myself from financial harm. Telesis failed to communicate with me at any time during their loan transaction with CP8.

15. In my initial dealings with Mr. Copeland, he seemed trustworthy and competent. Having had no professional training or experience in accounting or investments myself, I trusted him. He portrayed himself as a professional, and as a conservative investor. I never had any reason not to trust him.

16. I did not independently investigate the real property in Volney, New York, in which the money was invested. I saw the prospectus documents mentioned above, but I did not research the property values or the market. Instead, I relied on Chuck Copeland's representations that the investments were sound, and upon his apparent integrity and professionalism, that I had come to expect over the many years he served as my accountant.

17. The failed investment with CP8 through Charles Copeland has ruined my plans for the future. My wife and I relied on the money invested in Copeland's limited liability entities, and the return on those investments, for my retirement and our future financial well-being. Now, I find myself in a situation where, as a result of the Copeland Ponzi scheme, I am about to be the sole remaining defendant in a foreclosure action. I further understand that the amount of the debt incurred by CP8 may far exceed the value of the Volney property. I should not be made a victim to the Copeland scheme a second time.

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18. I ask the Court to reject the proposed settlement terms offered by the NCUA as Liquidating Agent, and either: (1) approve the settlement only on condition that the Liquidating Agent release me from guarantor liability and take no action to enforce the guaranty that was obtained by fraud and deceit; or (2) deny approval of the proposed settlement and instruct the receiver to negotiate a settlement that will hold me harmless with respect to the claims made against me in the New York action.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 9th day of May 2013, at Redlands, California.

Bruce Taber, D.D.S.

INDEX OF EXHIBITS

Exhibit "A," pages 1-5: Indemnification and Tolling Agreement dated 3/23/2010.

INDEMNIFICATION AND TOLLING AGREEMENT

This Indemnification and Tolling Agreement (the "Agreement") is made by and between Dr. Bruce Taber ("Taber") on the one hand, and Copeland Wealth Management, a Real Estate Corporation ("CWM"), Donald E. Copeland ("Donald") and Chuck Copeland ("Chuck") on the other. (CWM, Donald and Chuck are referred to herein collectively as (the "Copeland Parties"). Taber and the Copeland Parties are sometimes referred to herein collectively as (the "Parties").

RECITALS

A. In or about June 2005, the Copeland Parties offered Taber an opportunity to invest in a California Limited Partnership, known as Copeland Properties Eight, a limited partnership, (the "Copeland Limited Partnership") as a limited partner.

B. Taber decided to invest in the "Copeland Limited Partnership" and purchased 18 of the 100 Copeland Limited Partnership units for $319,097.15 and vested title to those units as the Bruce L. Taber or Maureen A. Taber, as trustees, of the Taber Trust Dated April 7, 1997.

C. The Copeland Limited Partnership purchased certain real property located at 123 Great Bear Road, Volney, New York (the "Property"). In connection with the purchase of the Property, the Copeland Limited Partnership executed a promissory note (the "Note") in favor of Telesis Community Credit Association (the "Bank") in the principal sum of $4,256,250.

D. The Bank contends that Copeland Limited Partnership provided a personal guarantee of Taber of the Note (the "Taber Personal Guarantee").

E. The Bank contends that Copeland Limited Partnership is in default as to the Note, and that Taber is in default as to the Taber Personal Guarantee. The Bank has filed suit in the

Supreme Court of the State of New York, County of Oswego, Case No. 09-1988 (the "Legal Action"), as against, among others, the Copeland Limited Partnership and Taber, to enforce the Note and Guarantee.

F. Taber on the one hand and the Copeland Parties on the other, believe that it is in their best interests, at the present time, to defer potential litigation or claims that may exist between them concerning the above-referenced matters and to formalize the agreement by which Taber will be indemnified and held harmless by the Copeland Parties with respect to the Note, the Taber Personal Guarantee and/or the Legal Action.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and promises set forth herein and other good and valuable consideration, in order to avoid the additional costs associated with proceeding with litigation at this time, the Parties agree as follows:

AGREEMENT

1. The foregoing recitals shall be part of this Agreement.

2. The Copeland Parties hereby agree, jointly and severally, to fully indemnify, defend and hold Taber harmless, with respect to any and all claims asserted against Taber that relate to, regard or concern: (1) the Taber Personal Guarantee; (2) the Note; and/or (3) the Legal Action.

3. Taber on the one hand, and the Copeland Parties on the other, hereby agree that the statute of limitations on any claim, cause of action, demand, suit or proceeding Taber has or may have against the Copeland Parties, or any of them, is hereby tolled from the date of this

Agreement until the expiration of the Tolling Period, as defined below. That is, the Copeland Parties hereby agree that the statute of limitations, other time limitations and any other time related defenses that may be asserted by the Copeland Parties, or any of them, whether statutory, regulatory, equitable, contractual, or otherwise, as to any claim of Taber shall be tolled from the date of this Agreement to the expiration of the Tolling Period, as defined below. No time that elapses during the Tolling Period may be asserted or relied upon by any of the Copeland Parties in computing the running of time for purposes of any statute of limitations, laches or other time limitation or defense with respect to any such Taber claim, cause of action or complaint.

4. The "Tolling Period" for purposes of this Agreement is defined as follows: the time when this Agreement is executed by all Parties hereto and extends to June 1, 2015. However, the Tolling Period shall automatically extend for additional one year periods (commencing June 1, 2015) unless any Party hereto gives ninety (90) days advance written notice of his, or its intention, to cancel this automatic renewal provision (the "Cancellation Notice"), which such advance written notice must be given at least ninety (90) days prior to the expiration of the Tolling Period. The Cancellation Notice, to be effective, must be in writing and sent by overnight mail as follows:

If to Bruce Taber, addressed as follows:

Dr. Bruce Taber, 1475 Crestview Rd., Redlands CA 92374

With a copy to,

Steven J. Goon, Rutan & Tucker, LLP, 611 Anton Blvd. Ste. 1400, Costa Mesa CA 92626

If to the Copeland Parties (or any of them), addressed as follows:

Donald Copeland & Chuck Copeland, 25809 Business Center Drive, Suite B, CA 92374.

5. This Agreement is an integrated agreement containing all the terms agreed upon by the Parties with respect to this agreement. Except as may be expressly provided herein, this Agreement supersedes all prior and contemporaneous oral or written statements, representations, and agreements concerning the subject matter of this Agreement, and it may not be amended except by a writing executed by all Parties hereto.

6. This Agreement may be executed in counterparts. Executed copies sent by facsimile or other electronic transmission shall be deemed to be the equivalent of signed originals.

7. The Parties each represent and warrant that the execution, delivery and performance by each of them of this Agreement has been duly authorized to the extent such authorization is required, and requires no further approval from any third party or any other party that has not already given such approval.

8. Any person executing this Agreement on behalf of any Party hereto hereby personally represents and warrants to all other Parties that he/she has the authority to execute this Agreement on behalf of, and to fully bind such Party.

9. Each Party acknowledges that it has had the opportunity to review this Agreement with legal counsel. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any of the Parties hereto.

10. If any provision of this Agreement is determined to be void or unenforceable, such provision shall be deemed to be severed and deleted from the Agreement as a whole, and

neither such provision nor its severance and/or deletion shall affect the validity of the remaining provisions of this Agreement.

11. It is agreed that this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal representatives, successors in interest and assigns of the respective Parties hereto.

12. This Agreement shall be governed by and construed under the laws of the State of California.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates written below.

Dated: 3-23-10

COPELAND WEALTH MANAGEMENT, A REAL ESTATE CORPORATION

By: Donald E. Copeland
Its: President

Dated: 3-23-10

DONALD E. COPELAND

Dated: 3/23/2010

CHUCK COPELAND

Dated: 3-23-10

DR. BRUCE TABER