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6 Attorneys for Save Most Desert Rancho, Ltd.,  
Debtor and Debtor-in-Possession  
7

8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

10 In re	)	Case No. 8:12-bk-23173 CB
	)	Chapter 11
	)	
12 <b>SAVE MOST DESERT RANCHO, LTD</b>	)	<b>MOTION TO DISMISS CHAPTER 11</b>
	)	<b>PROCEEDING; MEMORANDUM OF</b>
	)	<b>POINTS AND AUTHORITIES IN</b>
	)	<b>SUPPORT THEREOF; DECLARATION OF</b>
14 Debtor-in-Possession.	)	<b>CHARLES KAMINSKAS IN SUPPORT</b>
	)	<b>THEREOF</b>
	)	
	)	Date: October 2, 2013
	)	Time: 10:00 a.m.
	)	Ctrm: 5D 5 <sup>th</sup> Floor
	)	411 W. Fourth Street
	)	Santa Ana, CA 92701

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19 **TO THE HONORABLE CATHERINE E. BAUER, UNITED STATES BANKRUPTCY JUDGE:**

20 Save Most Desert Rancho, Ltd, debtor and debtor in possession (the “Debtor”) files this motion  
21 for an order dismissing this Chapter 11 proceeding (the “Dismiss Motion”). This Dismiss Motion is  
22 based on the Notice of Dismiss Motion, the appended Memorandum of Points and Authorities, the  
23 Declaration of Charles Kaminskas (the “Kaminskas Declaration”) in support of the Dismiss Motion, and  
24 such other oral and documentary evidence as may be properly before this Court at the hearing on the  
25 Dismiss Motion. In support of this Dismiss Motion, the Debtor respectfully submits as follows:

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**FACTUAL BACKGROUND**

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1. On November 15, 2012 (the “Petition Date”), the Debtor filed a Voluntary Petition under Chapter 11 of Title 11 of the United States Code. The Debtor is continuing in the operation and management of its business as a debtor-in-possession pursuant to §§1107 and 1108 of the Bankruptcy Code and no Committees have been appointed. [Kaminskas Declaration ¶2].

2. As of the Petition Date, the Debtor owned multi-tenant office buildings located at 23272 Mill Creek Drive, Laguna Hills, California (the “Laguna Hills Property”) and 200 South Main St., Corona, California (the “Corona Property”). By Court order (the “SDCCU Settlement Order”) entered on March 29, 2013, this Court approved the settlement between the Debtor and San Diego County Credit Union (“SDCCU”) regarding the sale of the Corona Property. [Docket No. 100]. By Court order entered on April 25, 2013, this Court approved the Debtor’s Motion Authorizing and Approving the Sale of the Corona Property Free and Clear of Liens, Pursuant to Bankruptcy Code Section 363 and Authorizing Overbid Procedures (the “Sale Order”). [Docket No. 108]. [Kaminskas Declaration ¶3].

3. By Court order entered on May 23, 2013, the Debtor’s motion for an order approving an amendment to the Agreement of Purchase and Sale and Joint Escrow Instructions related to the sale of the Corona Property (the “Amendment Order”) was approved by the Court. [Docket No. 119]. The sale of the Corona Property has closed. [Kaminskas Declaration ¶4].

4. The Riverside County Transportation Commission (“RCTC”) is in the process of acquiring, by eminent domain, a portion of the land associated with the Corona Property. At a hearing held on August 14, 2013, this Court granted the motion of the RCTC for relief from the automatic stay to proceed under applicable nonbankruptcy law to acquire certain portions of and interests in the Corona Property by eminent domain, including but not limited to noticing and conducting a resolution of necessity hearing, and if the resolution is adopted, commencing and completing a state court eminent domain action. The Debtor and the RCTC have agreed on the "taking" price for that portion of the Corona Property which is the subject of the eminent domain action. Further court action, if any, will take place in the California State Superior Court. [Kaminskas Declaration ¶5].

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1           5.       After dismissal of the Debtor's Chapter 11 case, the Debtor's and SDCCU's interest in  
2 and to the taking RCTC proceeds are to be split and paid in accordance with the terms of the SDCCU  
3 Settlement Order approving the settlement between the Debtor and SDCCU, as follows:

4           a.       Special Counsel for the Debtor, Lee R. Goldberg, Esq., with consult and  
5 cooperation with counsel for SDCCU, shall represent the interests of both the Debtor and SDCCU in  
6 obtaining the RCTC proceeds and negotiations with the RCTC;

7           b.       The RCTC and the Debtor shall pay to Lee R. Goldberg the amount of \$10,000.00  
8 for his post termination services described above, from RCTC proceeds in accordance with the agreed  
9 upon division in the approved settlement agreement 75/25 (\$7,500 to be paid from SDCCU proceeds, and  
10 \$2,500 to be paid from Debtor's proceeds – If RCTC proceeds do not exceed \$1M, no payment to Mr.  
11 Goldberg is due);

12           c.       The RCTC and Debtor have substantially agreed upon a value of the proceeds (as  
13 approved by SDCCU), which amount totals \$1.3M;

14           d.       Mr. Goldberg shall receive and administer all disbursements from the RCTC  
15 through his client trust account, and shall distribute the RCTC proceeds pursuant to the terms of the  
16 approved settlement agreement. Assuming the \$1.3M amount is actually received by Mr. Goldberg in his  
17 trust account, Mr. Goldberg shall disburse the RCTC proceeds as follows:

18           e.       The first \$275,948.74 of RCTC proceeds shall be disbursed to SDCCU to bring  
19 the total sale proceeds to SDCCU to the agreed upon \$8.4M;

20           f.       The next \$760,538.45 of RCTC Proceeds (representing 75% of the remaining  
21 RCTC proceeds less \$7,500 in attorney's fees to Mr. Goldberg) shall be disbursed to SDCCU;

22           g.       The next \$253,512.82 of RCTC proceeds (representing 25% of the remaining  
23 RCTC proceeds less \$2,500 in attorney's fees to Mr. Goldberg) shall be disbursed to the Debtor; and

24           h.       The final \$10,000 in RCTC proceeds (representing payment of \$2,500 from the  
25 Debtor and \$7,500 from SDCCU) shall be disbursed to, and retained by, Mr. Goldberg in payment of his  
26 post Chapter 11 case dismissal services described above. [Kaminskas Declaration ¶6].

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1           6.       Upon full disbursement of the RCTC proceeds, the settlement agreement between Debtor  
2 and SDCCU will be completed, and SDCCU will file the request for dismissal of the entire state court  
3 action “with prejudice.” [Kaminskas Declaration ¶7].

4           7.       The Debtor recently received an offer to purchase the Laguna Hills Property which is  
5 conditioned upon closing the sale as quickly as possible but not later than October 15, 2013. The Debtor  
6 reached an agreement with JP Morgan Chase Bank (“Chase”), the lender holding the only trust deed  
7 against the Laguna Hills Property, which provides for the sale of the Laguna Hills Property and is  
8 conditioned upon the Debtor promptly seeking dismissal of its Chapter 11 case and distributing an agreed  
9 upon payment amount to Chase to be received no later than October 15, 2013. [Kaminskas Declaration  
10 ¶8].

11           8.       The net proceeds from the sale of the Laguna Hill Property, after payment of: a) the agreed  
12 upon amount to be paid to Chase on account of its secured claim; b) real property taxes; c) escrow, title  
13 and other fees; and d) all administrative claims, including legal fees and costs of the Law Offices of  
14 Michael G. Spector which are to be paid through this escrow after approval by the Debtor, is sufficient  
15 to pay all non-insider general unsecured claim (estimated at \$23,000) in full. Insiders have agreed to  
16 subordinate their claims to holders of allowed unsecured claims. [Kaminskas Declaration ¶9].

17           9.       Through this Dismiss Motion, the Debtor seeks an immediate dismissal of it Chapter 11  
18 case conditioned upon such order providing that, notwithstanding §349 of the Bankruptcy Code, all prior  
19 orders of this Court will survive dismissal and this Court to will retain exclusive jurisdiction to enforce  
20 the provisions of the Sale Order, the Sale Agreement (as that term is defined in the Sale Motion), the  
21 Amendment Order, the Amendment (as that term is defined Amendment Motion)<sup>1</sup> and the order  
22 approving this Dismiss Motion (the “Dismissal Order”) and to resolve any dispute concerning the Sale  
23 Orders and the Dismissal Order. [Kaminskas Declaration ¶10].

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28           <sup>1</sup>       The Sale Order, the Sale Agreement, the Amendment Order, and the Amendment are  
collectively referred to as the “Sale Orders.”

1 10. Dismissal on the terms set forth above is in the best interest of creditors and the Debtor  
2 for at least the following reasons:

3 a. All non-insider claims against the Debtor’s bankruptcy estate will be paid  
4 expeditiously and in full;

5 b. It will prevent the delays and costs associated with confirmation of a liquidating  
6 plan;

7 c. All orders entered in the Debtor’s Chapter 11 case;

8 d. In the event there are any issues related to the sale of the Corona Property, this  
9 Court will retain jurisdiction to resolve such disputes;

10 e. The Debtor will be able to comply with the timing requirements set forth in the  
11 offer to purchase the Laguna Hill Property and complete the sale of on or before October 15, 2013  
12 resulting in payment of all unsecured and administrative claims; and

13 f. The Debtor will be able to comply with the timing requirements of its settlement  
14 with Chase which provides for payment to Chase on account of its secured claim no later than  
15 October 15, 2013.

16 [Kaminskas Declaration ¶11].

17 11. For at least these reasons, the proposed structured dismissal is in the best interest of  
18 creditors and the Debtor. [Kaminskas Declaration ¶12].

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

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3 I.

4 **THERE IS SUFFICIENT CAUSE FOR DISMISSAL**

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6 12. Bankruptcy Code § 1112(b) provides that:

7 [e]xcept as provided in paragraph (2) of this subsection, subsection © of  
8 this section, and section 1104(a)(3), on request of a party in interest, and  
9 after a notice and a hearing, absent unusual circumstances specifically  
10 identified by the court that establish that the requested conversion or  
dismissal is not in the best interests of creditors and the estate, the court  
11 . . . shall dismiss a case under this chapter . . . if the movant establishes  
12 cause . . .

13 13. While Section 1112(b)(4) identifies numerous grounds for establishing “cause,” none of  
14 those factors pertain to a debtor requesting the voluntary dismissal of his case. However, in the Ninth  
15 Circuit, it has generally found that a debtor should be permitted to voluntarily dismiss his case, unless  
16 there is a showing that the creditors will suffer “legal prejudice.” In re Hall, 15 B.R. 913, 915-16; In re  
International Airport Inn Partnership, 517 F.2d 510, 512 (9<sup>th</sup> Cir. 1975); In re Leach, 130 B.R. 855, 857  
(9<sup>th</sup> Cir.BAP 1991); In re Geller, 74 B.R. 685, 688-689 (Bankr. E.D. Pa 1987).

17 14. Assuming that “cause” exists, a bankruptcy court is required to convert or dismiss the  
18 chapter 11 case, “absent unusual circumstances . . . that the requested conversion or dismissal is not in  
19 the best interest of creditors and the estate.” 11 U.S.C. § 1112(b)(1).

20 15. Because Section 1112(b)(4)’s list is non-exhaustive, a bankruptcy court is not limited to  
21 the examples of “cause” listed in § 1112(b)(4). See, In re Foamex Int’l Inc., et al., (Bankr. D. Del. Nov.  
22 18, 2009). The Bankruptcy Court has broad discretion to approve a structured dismissal that is in the best  
23 interest of creditors. In the case of BAG Liquidation, Ltd., the proponent argued that “cause” existed  
24 under § 1112(b)(4)(A) because there was nothing left to reorganize post-sale, and that a plan of  
25 “reorganization” could not be confirmed. In re BAG Liquidation Ltd., (Bankr. N.D. Tex. 2009).

26 16. Similarly, upon completion of the sale of the Laguna Hills Property, the Debtor will have  
27 nothing to reorganize will therefore be unable to maintain a case under Chapter 11. As set forth in the  
28 Kaminskas Declaration, non-insider creditors are best served under a dismissal as they will receive

1 payment in full within a couple of weeks after the dismissal. Alternatively, if the Debtor were required  
2 to liquidate the Laguna Hill Property through a liquidating plan, it will be several months before creditors  
3 will be paid and there is no guarantee that the buyer will still be interested in purchasing the Laguna Hills  
4 Property.

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6 II.

7 THIS COURT SHOULD DISMISS THE DEBTOR'S CHAPTER 11 CASE  
8 AS THE INTERESTS OF CREDITORS AND THE DEBTOR  
9 ARE BEST SERVED BY THE PROPOSED DISMISSAL

10 17. Bankruptcy Code Section 105(a) provides that:

11 [t]he court may issue any order, process, or judgment that is necessary  
12 or appropriate to carry out the provisions of this title. No provision of  
13 this title providing for the raising of an issue by a party in interest shall  
14 be construed to preclude the court from, sua sponte, taking any action or  
15 making any determination necessary or appropriate to enforce or  
16 implement court orders or rules, or to prevent an abuse of process.

17 18. Where valid business justifications exist, there is a strong presumption “that in making  
18 a decision[,] the directors of a corporation acted on an informed basis, in good faith and in the honest  
19 belief that the action taken was in the best interest of the company.” See, Official Comm. of  
20 Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656  
21 (S.D.N.Y. 1992). Furthermore, “[w]here the debtor articulates a reasonable basis for its business  
22 decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not  
23 entertain objections to the debtor’s conduct.” Committee of Asbestos-Related Litigants v. Johns-  
24 Manville Corp., 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1996). Instead, objections to such decisions will  
25 only be entertained when they allege “bad faith, self interest or gross negligence.” See, Integrated  
26 Resources, 147 B.R. at 656.

27 19. Section 305 of the Bankruptcy Code provides additional statutory support for  
28 obtaining a structured dismissal. Section 305 provides, in part, that the court may dismiss a case under  
any chapter of the Bankruptcy Code if “the interests of creditors and the debtor would be better served  
by such dismissal.” 11 U.S.C. § 305(a)(1). Although § 305 has historically been used to dismiss

1 involuntary cases, courts have found the statute to be applicable to voluntary cases as well. See, e.g.,  
2 In re Monitor Single Lift I Ltd., 381 B.R. 455, 463 (Bankr. S.D.N.Y. 2008).

3 20. Because a dismissal under § 305(a) is not appealable, 11 U.S.C. § 305©, courts  
4 universally recognize that § 305(a) is an “extraordinary remedy,” and that “dismissal is appropriate  
5 under § 305(a)(1) only where both ‘creditors and the debtor’ would be ‘better served’ by a dismissal.  
6 Id.

7 21. As set forth in the Kaminkas Declaration, it is in the best interest of creditors and the  
8 Debtor that the Court approve the proposed dismissal. Under the facts, non-insider creditors will be  
9 paid in full a very short time period after dismissal and the Debtor will be able to comply with the  
10 timing requirements of both Chase and the buyer of the Laguna Hills Property. Through this  
11 structured dismissal, the Debtor’s estate will avoid the delays and costs associated with confirming a  
12 liquidating plan as well as the avoid the risk of losing the buyer of the Laguna Hills Property.  
13 Moreover, creditors are further protected in that prior orders entered in the Debtor’s Chapter 11 case  
14 will survive dismissal and this Court will retain exclusive jurisdiction over the Sale Orders as well as  
15 the Dismissal Order.

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17 III.

18 THE DISMISSAL ORDER SHOULD BE EFFECTIVE IMMEDIATELY UPON ITS ENTRY

19 22. Certain Bankruptcy Rules provide for a 10-day stay of effectiveness of orders entered  
20 by the Bankruptcy Court, in each case subject to the ability of the Bankruptcy Court to order  
21 otherwise. See e.g., Fed. R. Bankr. P. 4001(a)(3), 6004(h), 7062 & 9014. To the extent any such stay  
22 would otherwise be applicable here, the Debtor requests that the Dismissal Order be effective  
23 immediately by providing that the 10-day stay under the foregoing Bankruptcy Rules or any similar  
24 rules is waived.

25 23. The purpose of such stay is to provide sufficient time for an objecting party to appeal  
26 before an order can be implemented. See e.g., Advisory Committee Notes to Fed. R. Bankr. P.  
27 6004(h). Although the Bankruptcy Rules and their related Advisory Committee Notes are silent as to  
28 when a court should “order otherwise” and eliminate or reduce the 10-day stay period, the leading

1 treatise on bankruptcy suggest that the 10-day stay period should be eliminated to allow a transaction  
2 to close immediately “where there has been no objection to the procedure.” 10 Collier on Bankruptcy  
3 ¶6004.10 (15<sup>th</sup> rev. ed. 2008). Additionally, Collier suggest that if an objection is filed and overruled,  
4 and the objecting party informs the court of its intent to appeal. The stay may be reduced to an amount  
5 of time actually necessary to file such appeal. Id.

6           24.     The Debtor respectfully submits that waiver of any applicable stay is appropriate under  
7 the circumstances of this case. Here, the Debtor has an offer to purchase the Laguna Hills Property  
8 and has reached a settlement with Chase, the secured lender on the Laguna Hills Property, both of  
9 which include a deadline of October 15, 2013 to close the sale and pay Chase. Thus, waiver of any  
10 applicable stay is needed to allow these transactions to proceed without delay following entry of the  
11 Dismissal Order.

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1 IV.

2 CONCLUSION

3 25. For the reasons set forth above, it is appropriate for this Court to enter an order  
4 authorizing dismissal of this Chapter 11 proceeding and, notwithstanding §349 of the Bankruptcy  
5 Code, the Dismissal Order should provide that:

6 a. All prior orders of this Court will survive dismissal;

7 b. This Court to will retain exclusive jurisdiction to enforce the provisions of the  
8 Sale Orders and the Dismissal Order and to resolve any dispute concerning the Sale Orders and the  
9 Dismissal Order;

10 c. The Debtor's and SDCCU's interest in and to the taking RCTC proceeds are to  
11 be split and paid in accordance with the terms of the SDCCU Settlement Order and as set forth above;

12 d. Judgment in favor of the Office of the United States Trustee for any unpaid  
13 quarterly fees; and

14 e. Such other and further provisions as this Court deems just and proper.

15 Respectfully submitted,

16 Dated: September 11, 2013

**LAW OFFICES OF MICHAEL G. SPECTOR**

17  
18 By: /s/ Vicki L Schennum  
19 Michael G. Spector  
20 Vicki L. Schennum (Of Counsel)  
21 Attorneys for Save Most Desert Rancho, Ltd.,  
22 Debtor and Debtor in Possession  
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**DECLARATION OF CHARLES KAMINSKAS**

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2 I, Charles Kaminskas declare as follows:

3           1. I am the general partner of Brighton Park, LP, which is the general partner of Save  
4 Most Desert Rancho, Ltd., the debtor and debtor-in-possession (the “Debtor”). I have personal  
5 knowledge of the facts set forth in this declaration and, if called upon as a witness, I could and would  
6 competently testify thereto. I am also personally familiar with, and am custodian of, the records of  
7 the Debtor as they pertain to the financial records set forth herein. The records of the Debtor are  
8 made by employees of the Debtor who report to me and who have a business duty to enter the records  
9 of the Debtor accurately and at or near the time of the event which they record.

10           2. On November 15, 2012 (the “Petition Date”), the Debtor filed a voluntary petition for  
11 protection under Chapter 11 of the Bankruptcy Code. The Debtor is continuing in the operation and  
12 management of its business as a debtor-in-possession pursuant to Sections 1107 and 1108 of the  
13 Bankruptcy Code and no Committees have been appointed. The Debtor is a limited partnership. Its  
14 general partner is Brighton Park, LP and the Debtor has numerous limited partners. I am the general  
15 partner of Brighton Park.

16           3. As of the Petition Date, the Debtor owned multi-tenant office buildings located at  
17 23272 Mill Creek Drive, Laguna Hills, California (the “Laguna Hills Property”) and 200 South Main  
18 St., Corona, California (the “Corona Property”). By Court order (the “SDCCU Settlement Order”)   
19 entered on March 29, 2013 [Docket No. 100], this Court approved the settlement between the Debtor  
20 and San Diego County Credit Union (“SDCCU”) regarding the sale of the Corona Property. By Court  
21 order entered on April 25, 2013, this Court approved the Debtor’s Motion Authorizing and Approving  
22 the Sale of the Corona Property Free and Clear of Liens, Pursuant to Bankruptcy Code Section 363  
23 and Authorizing Overbid Procedures (the “Sale Order”). [Docket No. 108].

24           4. By Court order entered on May 23, 2013, the Debtor’s motion for an order approving  
25 an amendment to the Agreement of Purchase and Sale and Joint Escrow Instructions related to the  
26 sale of the Corona Property (the “Amendment Order”). [Docket No. 119]. The sale of the Corona  
27 Property has closed.

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1           5.       The Riverside County Transportation Commission (“RCTC”) is in the process of  
2 acquiring, by eminent domain, a portion of the land associated with the Corona Property. At a  
3 hearing held on August 14, 2013, this Court granted the motion of the RCTC for relief from the  
4 automatic stay to proceed under applicable nonbankruptcy law to acquire certain portions of and  
5 interests in the Corona Property by eminent domain, including but not limited to noticing and  
6 conducting a resolution of necessity hearing, and if the resolution is adopted, commencing and  
7 completing a state court eminent domain action. The Debtor and the RCTC have agreed on  
8 the "taking" price for that portion of the Corona Property which is the subject of the eminent domain  
9 action. Further court action, if any, will take place in the California State Superior Court.

10           6.       After dismissal of the Debtor’s Chapter 11 case, the Debtor’s and SDCCU’s interest in  
11 and to the taking RCTC proceeds are to be split and paid in accordance with the terms of the SDCCU  
12 Settlement Order approving the settlement between the Debtor and SDCCU, as follows:

13               a.       Special Counsel for the Debtor, Lee R. Goldberg, Esq., with consult and  
14 cooperation with counsel for SDCCU, shall represent the interests of both the Debtor and SDCCU in  
15 obtaining the RCTC proceeds and negotiations with the RCTC;

16               b.       The RCTC and the Debtor shall pay to Lee R. Goldberg the amount of  
17 \$10,000.00 for his post termination services described above, from RCTC proceeds in accordance  
18 with the agreed upon division in the approved settlement agreement 75/25 (\$7,500 to be paid from  
19 SDCCU proceeds, and \$2,500 to be paid from Debtor’s proceeds – If RCTC proceeds do not exceed  
20 \$1M, no payment to Mr. Goldberg is due);

21               c.       The RCTC and Debtor have substantially agreed upon a value of the proceeds  
22 (as approved by SDCCU), which amount totals \$1.3M;

23               d.       Mr. Goldberg shall receive and administer all disbursements from the RCTC  
24 through his client trust account, and shall distribute the RCTC proceeds pursuant to the terms of the  
25 approved settlement agreement. Assuming the \$1.3M amount is actually received by Mr. Goldberg in  
26 his trust account, Mr. Goldberg shall disburse the RCTC proceeds as follows:

27               e.       The first \$275,948.74 of RCTC proceeds shall be disbursed to SDCCU to bring  
28 the total sale proceeds to SDCCU to the agreed upon \$8.4M;

1 f. The next \$760,538.45 of RCTC Proceeds (representing 75% of the remaining  
2 RCTC proceeds less \$7,500 in attorney's fees to Mr. Goldberg) shall be disbursed to SDCCU;

3 g. The next \$253,512.82 of RCTC proceeds (representing 25% of the remaining  
4 RCTC proceeds less \$2,500 in attorney's fees to Mr. Goldberg) shall be disbursed to the Debtor; and

5 h. The final \$10,000 in RCTC proceeds (representing payment of \$2,500 from the  
6 Debtor and \$7,500 from SDCCU) shall be disbursed to, and retained by, Mr. Goldberg in payment of  
7 his post Chapter 11 case dismissal services described above.

8 7. Upon full disbursement of the RCTC proceeds, the settlement agreement between  
9 Debtor and SDCCU will be completed, and SDCCU will file the request for dismissal of the entire  
10 state court action "with prejudice."

11 8. The Debtor recently received an offer to purchase the Laguna Hills Property which is  
12 conditioned upon closing the sale as quickly as possible but not later than October 15, 2013. The  
13 Debtor reached an agreement with JP Morgan Chase Bank ("Chase"), the lender holding the only  
14 trust deed against the Laguna Hills Property, which provides for the sale of the Laguna Hills Property  
15 and is conditioned upon the Debtor promptly seeking dismissal of its Chapter 11 case and  
16 distributing an agreed upon payment amount to Chase to be received no later than October 15, 2013.

17 9. The net proceeds from the sale of the Laguna Hill Property, after payment of: a) the  
18 agreed upon amount to be paid to Chase on account of its secured claim; b) real property taxes;  
19 c) escrow, title and other fees; and d) all administrative claims, including legal fees and costs of the  
20 Law Offices of Michael G. Spector which are to be paid through this escrow after approval by the  
21 Debtor, is sufficient to pay all non-insider general unsecured claim (estimated at \$23,000) in full.  
22 Insiders have agreed to subordinate their claims to holders of allowed unsecured claims.

23 10. Through this Dismiss Motion, the Debtor seeks an immediate dismissal of its Chapter  
24 11 case conditioned upon such order providing that, notwithstanding §349 of the Bankruptcy Code,  
25 all prior orders of this Court will survive dismissal and this Court will retain exclusive jurisdiction  
26 to enforce the provisions of the Sale Order, the Sale Agreement, the Amendment Order, the Dismissal  
27 Order and to resolve any dispute concerning the Sale Orders and the Dismissal Order.

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1 11. I believe that dismissal on the terms set forth above is in the best interest of creditors  
2 and the Debtor for at least the following reasons:

3 a. All non-insider claims against the Debtor's bankruptcy estate will be paid  
4 expeditiously and in full;

5 b. It will prevent the delays and costs associated with confirmation of a  
6 liquidating plan;

7 c. All orders entered in the Debtor's Chapter 11 case will survive dismissal and  
8 will remain in full force and effect.

9 d. In the event there are any issues related to the sale of the Corona Property, this  
10 Court will retain jurisdiction to resolve such disputes.

11 e. The Debtor will be able to comply with the timing requirements set forth in the  
12 offer to purchase the Laguna Hill Property and complete the sale of on or before October 15, 2013  
13 resulting in payment of all unsecured and administrative claims; and

14 f. The Debtor will be able to comply with the timing requirements of its  
15 settlement with Chase which provides for payment to Chase on account of its secured claim no later  
16 than October 15, 2013.

17 12. For at least these reasons, I believe that the proposed structured dismissal is in the best  
18 interest of creditors and the Debtor.

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

21 Executed on September 11, 2013, at Laguna Hills, California.

22  
23 /s. Charles Kaminskas  
Charles Kaminskas

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**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 2677 North Main St, Ste 910, Santa Ana, CA 92705

A true and correct copy of the foregoing document entitled (*specify*): **MOTION TO DISMISS CHAPTER 11 PROCEEDING; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION OF CHARLES KAMINSKAS IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **September 11, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Nancy S Goldenberg	nancy.goldenberg@usdoj.gov
J. Barrett Marum	bmarum@sheppardmullin.com,danderson@sheppardmullin.com
Reed M Mercado	rmercado@sheppardmullin.com
Vicki L Schennum	schennumlaw@gmail.com
Michael G Spector	mgspector@aol.com
Douglas G Tennant	dtennant@frankel-tennant.com
Eric J Testan	etestan@frankel-tennant.com
Michael D Testan	mtestan@frankel-tennant.com
United States Trustee (SA)	ustpregion16.sa.ecf@usdoj.gov
David L Prince	dlp@redchamber.com
Martha E Romero	Romero@mromerolawfirm.com

**2. SERVED BY UNITED STATES MAIL:** On **September 11, 2013**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

September 11, 2013      Lisa Cavender  
Date                              Printed Name

/s/ Lisa Cavender  
Signature

Service List - Served Via US Mail

United States Bankruptcy Judge  
Hon. Catherine E. Bauer, U S Bankruptcy Judge  
United States Bankruptcy Court  
Ronald Reagan Federal Building  
and United States Courthouse  
411 West Fourth Street, Ste 5165  
Santa Ana, California 92701-8000