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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **SOUTHERN DIVISION**

14 SECURITIES AND EXCHANGE
15 COMMISSION,

16 Plaintiff,

17 v.

18 EMILIO FRANCISCO; PDC CAPITAL
19 GROUP, LLC; CAFFE PRIMO
20 INTERNATIONAL, INC.; SAL
21 ASSISTED LIVING, LP; SL
22 CARMICHAEL, LP; SAL CITRUS
23 HEIGHTS, LP; SAL KERN CANYON,
24 LP; SAL PHOENIX, LP; SAL
25 WESTGATE, LP; SUMMERPLACE
26 AT SARASOTA, LP; SUMMERPLACE
27 AT CLEARWATER, LP;
28 SUMMERPLACE AT CORRELL
PALMS, LP; TRC TUCSON, LP;
CLEAR CURRENTS WEST, LP;
CAFFE PRIMO MANAGEMENT, LP;
CAFFE PRIMO MANAGEMENT 102,
LP; et al.,

Defendants.

Case No. 8:16-cv-02257-CJC-DFM

Ctrm: 7C, 7th Floor
Judge: Hon. Cormac J. Carney

STIPULATION RE: (1) RECEIVER
AUTHORITY TO ABANDON
STOCKTON PROPERTY; AND
(2) LENDER RELIEF FROM
LITIGATION STAY TO PURSUE
FORECLOSURE

STIPULATION

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The following Stipulation to lift the litigation stay and grant the Receiver authority to abandon property to Private Mortgage Fund LLC, a California limited liability company ("**Lender**"), so it may pursue a foreclosure sale and/or other remedies to gain possession of the below described Stockton, California property is made by and between (1) Thomas A. Seaman (the "**Receiver**"), the Court-appointed receiver for PDC Capital Group, LLC, and their subsidiaries and affiliates¹ (collectively, "**Receivership Entities**"); (2) Plaintiff Securities and Exchange Commission ("**SEC**"); and (3) Lender (collectively, with the Receiver, the SEC, and Lender, the "**Parties**"), by and through their respective counsel of record, in accordance with the following:

A. On January 5, 2017, this Court entered the Temporary Restraining Order and Orders (1) Freezing Assets; (2) Prohibiting Destruction of Documents; (3) Appointing a Temporary Receiver, and (4) to Show Cause Regarding Issuance of a Preliminary Injunction and Appointment of a Permanent Receiver ("**TRO**") (Dkt. No. 17), and on January 23, 2017, this Court entered its Preliminary Injunction Against All Defendants ("**Preliminary Injunction**") (Dkt. No. 36).

B. The Preliminary Injunction appointed the Receiver as permanent receiver for the Receivership Entities and imposed a preliminary injunction and litigation stay, which stay precludes all persons and entities from pursuing claims against Receivership Entities and commencing, prosecuting, continuing or enforcing any suit or proceeding against any of the Receivership Entities (the "**Litigation Stay**"), without permission from this Court.

¹ As used herein, "Receivership Entities" refers to the following specifically named entities: PDC Capital Group, LLC; Caffe Primo International, Inc.; SAL Assisted Living, LP; SAL Carmichael, LP; SAL Citrus Heights, LP; SAL Kern Canyon, LP; SAL Phoenix, LP; SAL Westgate, LP; Summerplace at Sarasota, LP; Summerplace at Clearwater, LP; Summerplace at Correll Palms, LP; TRC Tucson, LP; Clear Currents West, LP; Caffe Primo Management, LP; Caffe Primo Management 102, LP through Caffe Primo Management 108, LP (collectively, "**Named Entities**"); and their subsidiaries and affiliates.

1 C. On or about December 1, 2016, a Receivership Entity, SAL Kern
2 Canyon, LLC ("**Borrower**"), borrowed the sum of \$1,200,000.00 (the "**Loan**")
3 from Lender. The Loan was secured by a deed of trust (the "**Deed of Trust**")
4 recorded in the official records of San Joaquin County, California encumbering the
5 real property and improvements known as 2602 A.G. Spanos Blvd., Stockton, CA
6 95209 (the "**Property**"). The Receiver and Lender agree that the Loan is in default.
7 Further, the Loan matures on January 1, 2019, which will be an additional event of
8 default if not paid in full by that time.

9 D. In addition to the Deed of Trust, there are real estate taxes due on the
10 Property as well as a Code Enforcement lien.

11 E. The Property has been listed for sale for over a year. In or around July
12 2018, the Receiver received an offer from a potential purchaser at a price sufficient
13 to satisfy the Loan and return a substantial sum of money to the receivership estate.
14 This buyer required a lengthy due diligence period and the sale was contingent on
15 HUD financing. After exhaustive negotiations and exchanging of drafts of letters
16 of intent, the buyer walked away from the transaction. The Receiver and his real
17 estate broker do not believe that another buyer will be found within a reasonable
18 amount of time.

19 F. The Receiver believes that after payment of secured claims related to
20 the Property and customary costs of sale, it is very unlikely that a buyer for the
21 Property can be located who would make an offer sufficient to provide a recovery
22 for the receivership estate. Moreover, given the entitlement status of the Property,
23 any sale would likely require an extended escrow period that would further erode
24 any remaining equity in the Property due to the interest what would accrue in the
25 interim. In other words, the Receiver believes the value of the Property is less than
26 the outstanding secured debt.

27 G. Lender has requested that the Receiver and the SEC stipulate that
28 Lender may have relief from the Litigation Stay in order to pursue a foreclosure

1 sale and other remedies to gain possession of the Property in satisfaction of the
2 Loan.

3 H. After meeting and conferring, the Parties have agreed that upon
4 approval of the Court, the Receiver will be deemed to have abandoned the Property
5 and Lender shall be granted relief from the Litigation Stay to pursue a foreclosure
6 sale.

7 **STIPULATION AND AGREEMENT**

8 Accordingly, and in consideration of the foregoing facts, the Parties
9 STIPULATE and AGREE as follows:

10 1. The Litigation Stay shall be lifted and the Receiver is authorized to
11 abandon the Property so the Lender may proceed with a foreclosure sale on the
12 Property without further order of the Court.

13 2. The Receiver is authorized to cease the expenditure of funds to
14 maintain, insure, or secure the Property, and Lender shall be responsible to maintain,
15 secure and insure the Property pending the foreclosure sale.

16 3. Lender's foreclosure shall be its sole remedy, and Lender waives any
17 other claims or causes of actions against the Borrower, Receiver or the Receivership
18 Entities.

19 4. All other provisions of this Court's prior orders shall remain in full
20 force and effect. This Court shall retain jurisdiction for the purpose of implementing
21 and carrying out the terms of this Stipulation and to entertain any suitable
22 application or motion for additional relief within the jurisdiction of this Court.

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1 **SO STIPULATED.**

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3 Dated: December 10, 2018

TULLIUS LAW GROUP
a Professional Corporation

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By: /s/ Jennifer R. Tullius

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JENNIFER R. TULLIUS
Attorneys for Interested Party
PRIVATE MORTGAGE FUND
LLC

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10 Dated: December 11, 2018

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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By: /s/ David R. Zaro

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DAVID R. ZARO
Attorneys for Receiver
THOMAS A. SEAMAN

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18 Dated: December 11, 2018

U.S. SECURITIES AND
EXCHANGE COMMISSION

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By: /s/ John Bulgozdy

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JOHN B. BULGOZDY
Attorneys for Plaintiff
SECURITIES AND EXCHANGE
COMMISSION

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