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5 Permanent Receiver

6  
7 **UNITED STATES DISTRICT COURT**  
8 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**  
9

10 SECURITIES AND EXCHANGE )  
COMMISSION )

11 )  
12 Plaintiff, )

13 vs. )

14 SUN EMPIRE, LLC, ECAM, LLC a/k/a )  
EMPIRE CAPITAL ASSET )  
15 MANAGEMENT, DELILAH A )  
PROCTOR and SHAUNTEL A. MCCOY, )  
16 Defendants. )

17 and )

18 SUN COMMERCE AND INVESTMENT, )  
INFINITY INVESTMENT CLUB, LLC, )  
19 SUNLAND INVESTMENT CLUB, LLC, )  
RECOMMENDED SERVICES, INC., and )  
20 TYCOON CLUB INTERNATIONAL, )  
LLC, )

21 Relief Defendants )

Case No.: SACV09-399 DOC (RNBx)

ASSIGNED JUDGE:  
HON. DAVID O. CARTER

**NOTICE OF MOTION AND  
MOTION FOR ORDER:**

(1) **APPROVING AND  
AFFIRMING RECEIVER'S  
THIRD REPORT AND  
SECOND ACCOUNT  
(CURRENTLY UNDER  
SUBMISSION); AND**

(2) **APPROVING AND  
AFFIRMING RECEIVER'S  
FOURTH REPORT AND  
THIRD ACCOUNT;**

**MEMORANDUM OF LAW IN  
SUPPORT OF THE MOTION**

[FILED CONCURRENTLY WITH  
FOURTH REPORT AND THIRD  
ACCOUNT; EXHIBITS A THROUGH  
J TO RECEIVER'S FOURTH REPORT  
AND THIRD ACCOUNT]

DATE: December 17, 2012  
TIME: 8:30 a.m.  
COURTROOM: 9 D

1           **TO THE HONORABLE DAVID O. CARTER, JUDGE OF THE UNITED**  
2           **STATES DISTRICT COURT:**

3           **NOTICE IS HEREBY GIVEN** that on December 17, 2012, at 8:30 a.m., in  
4 Courtroom 9-D, of the above-entitled Court, located at 411 West Fourth Street, Santa Ana,  
5 California, 92701, the Receiver herein, Richard Weissman (“Receiver”), will move the  
6 Court for an Order: (1) Approving and Affirming the Receiver’s Third Report and Second  
7 Account, which was taken under submission pursuant to the Court’s Minute Order issued  
8 August 17, 2011 (Document No. 357); and (2) Approving and Affirming the Receiver’s  
9 Fourth Report and Third Account, filed concurrently herewith.

10           This Motion is made on the grounds:

11           1.       On or about June 30, 2011, the Receiver filed his Third Interim Report and  
12 Second Account (“Third Report”) (Document Nos. (“Doc. No.”) 344 and 345) and  
13 Receiver’s Notice of Motion and Motion for Order: (1) Approving and Awarding Interim  
14 Receivership Fees and Expenses and (2) Approving and Awarding Forensic Accounting  
15 Fees and Expenses; Memorandum of Points and Authorities and Declarations of Richard  
16 Weissman and Dominic LoBuglio in Support Thereof (“June 30, 2011 Fee Motion”) (Doc.  
17 No. 343). By Minute Order issued on August 17, 2011 (Doc. No. 357), the Court took the  
18 Third Report and the June 30, 2011 Fee Motion under submission. By this Motion, the  
19 Receiver is respectfully requesting that the Court issue an Order approving and affirming  
20 the Receiver’s Third Report and Second Account, which has been under submission since  
21 August 17, 2011.

22           2.       Concurrently with this Motion, the Receiver is also filing Receiver’s Fourth  
23 Report and Third Account (“Fourth Report”), in which the Receiver reports and accounts  
24 for his activities in designing and implementing the claims procedure and distribution of  
25 funds to victims of the Defendants’ fraudulent investment activities. By this Motion, the  
26 Receiver is seeking an Order approving and affirming the Receiver’s actions during the  
27 period of April 1, 2011 through September 30, 2012 (“Fourth Reporting Period”),  
28 including, without limitation, the design, development, and implementation of the Claims


1 Procedure and the Distribution Plan, and the other activities described in the Fourth Report  
2 filed concurrently herewith.

3 This Motion is based on this Notice of Motion and Motion; the Third Report and  
4 Second Account filed herein on June 30, 2011 (Doc. No. 343); the Fourth Report and Third  
5 Account to Court, and Exhibits A through J to the Fourth Report and Third Account, filed  
6 concurrently herewith; the Memorandum of Law in support of the Motion; the Preliminary  
7 Injunctions and Orders Appointing Receiver issued by the Court on, respectively, April 30,  
8 2009 and May 26, 2009; and upon such additional orders, pleadings and oral and  
9 documentary evidence as may be considered in connection with the hearing and  
10 determination of this Motion, and the Fourth Report filed concurrently herewith.

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DATED: November 15, 2012

Respectfully submitted,

By:   
Richard Weissman  
Receiver for Sun Empire, LLC, Sun  
Commerce and Investment, Sun Group, Sun  
Investment Savings and Loan, ECAM, LLC, et al.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 This action was brought by the Securities and Exchange Commission ("SEC") to  
4 enjoin and restrain Defendants Bich Quyen Nguyen ("Nguyen"), Johnny E. Johnson  
5 ("Johnson") and Delilah A. Proctor's ("Proctor") (collectively, "Defendants") violations of  
6 Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a) and fraud, and to seek civil penalties  
7 and restitution for the victims of Defendants' fraudulent investment schemes. The Receiver  
8 was appointed as permanent receiver under orders issued by the Court on April 30, 2009 and  
9 May 26, 2009, respectively ("Receivership Orders"), and was ordered to take possession  
10 and control of the assets of certain entities, including, without limitation, Sun Empire,  
11 ECAM, LLC, Empire Capital Asset Management, Sun Investment Savings and Loan, Sun  
12 Commerce and Investment, Infinity Investment Club, LLC, Sunland Investment Club, LLC,  
13 Recommended Services, LLC, Tycoon International Investment Club, LLC, and their  
14 subsidiaries and affiliates ("Receivership Entities"). Under the Receivership Orders the  
15 Receiver was authorized and directed to account for investors' funds and to recover assets  
16 for the benefit of the Receivership.

17 **II. PROCEDURAL HISTORY**

18 The Receiver filed his First Interim Report ("First Report") on April 29, 2009, and  
19 his Second Interim Report and First Account ("Second Report") on or about January 22,  
20 2010. The Court approved both the First and Second Reports in its Order entered on  
21 February 24, 2010. (Doc. 174) On or about January 12, 2011 the Court issued a Final  
22 Judgment of Permanent Injunction and Other Relief ("Judgment") (Docket No. 362.) and an  
23 Order Granting Disgorgement ("Disgorgement Order") (Docket No. 325) against  
24 Defendants Bich Quyen Nguyen, Johnnie Johnson and Delilah Proctor (collectively,  
25 "Defendants").

26 On June 30, 2011 the Receiver filed his Third Report and Second Account of  
27 Receiver (Doc. No. 343). At the initial hearing on the Third Report, the Court directed the  
28 Receiver to propose a plan of distribution of funds to the injured investors of the

1 Defendants, and to draft and submit proposed claims documents including a Proof of Claim,  
2 Notice of Claims Procedure and other documents, as well as a proposed Distribution Plan.  
3 By Minute Order issued August 17, 2011, the Court took the Third Report under  
4 submission. (Doc. No. 357.) Thereafter, the Receiver complied with the Court's instructions  
5 and designed, implemented and completed a distribution of \$3 Million to the approved  
6 claimants against the receivership. The Fourth Report and Third Account outlines the  
7 Receiver's activities in accordance with the Court's instructions regarding the design and  
8 implementation of the Distribution Plan.

9 By this Motion, the Receiver is requesting that the Court issue its Order approving and  
10 affirming the Third Report and Second Account, which has been under submission since  
11 August 2011. Additionally, the Receiver is seeking an Order approving and affirming the  
12 Fourth Report and Third Account, which is being filed concurrently herewith.

13 **III. AN ORDER APPROVING RECEIVER'S THIRD REPORT AND FOURTH**  
14 **REPORT AND PROVIDING REQUESTED INSTRUCTIONS TO RECEIVER**  
15 **IS NECESSARY AND PROPER.**

16 **A. The Receiver's Third Report and Fourth Report Comply with Rule 66**  
17 **and Should be Approved by the Court.**

18 The receiver shall serve and file with the Court a report showing receipts and  
19 expenditures of the Receivership and a report of the actions and transactions performed by  
20 the Receiver during the reporting period. Fed.R.Civ.P. 66, L.R. 66-6.1.

21 Notice of hearing on all reports by the receiver must be given to all parties and  
22 creditors of the receivership entities. Fed.R.Civ.P. 66, L.R. 66-6.7(c).


23 Both the Receiver's Third Report and the Fourth Report are signed under penalty of  
24 perjury. The Third Report describes the activities undertaken and services provided by the  
25 Receiver and his staff during the respective periods of January 1, 2010 through March 31,  
26 2011 ("Third Reporting Period"). The Receiver's Fourth Report describes the activities  
27 undertaken and services provided by the Receiver and his staff during the respective periods  
28 of April 1, 2011 through September 30, 2012 ("Fourth Reporting Period"). The Receiver is

1 seeking an Order approving and ratifying the acts and transactions of the Receiver for the  
2 Third Reporting Period and the Fourth Reporting Period.

3 Based upon the foregoing and upon the contents of the verified Third Report and  
4 Fourth Report, it is respectfully submitted that the Court should issue its Order: (1)  
5 Approving and Affirming Receiver's Third Report and Second Account (Currently under  
6 Submission); and (2) Approving and Affirming Receiver's Fourth Report and Third  
7 Account.

8 DATED: November 15, 2012

Respectfully submitted,

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10   
11 Richard Weissman,  
12 Receiver for Sun Empire, LLC, Sun  
13 Commerce and Investment, Sun Group, Sun  
14 Investment Savings and Loan, ECAM, LLC, et al.  
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