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8 THOMAS A. SEAMAN

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

12 SECURITIES AND EXCHANGE  
COMMISSION,

13 Plaintiff,

14 vs.

15 SMALL BUSINESS CAPITAL CORP.;  
16 MARK FEATHERS; INVESTORS PRIME  
FUND, LLC; and SBC PORTFOLIO  
17 FUND, LLC,

18 Defendants.

Case No. CV12-03237

**EX PARTE APPLICATION FOR ORDER  
SHORTENING TIME ON MOTION FOR  
AUTHORITY TO:**

- (A) **SELL NATOMA PROPERTY;**
- (B) **SELL SWEET FINGERS PROPERTY;**
- (C) **SELL WHISKEY JUNCTION  
PROPERTY;**
- (D) **ACCEPT DISCOUNTED PAYOFF OF  
LOAN TO THE FOUR BROTHERS  
INNS, LLC**

Ctrm: 4 - 5th Floor  
Judge: Hon. Edward J. Davila

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1 Thomas A. Seaman ("Receiver"), the Court-appointed permanent receiver for Small  
 2 Business Capital Corp. ("SB Capital"), Investors Prime Fund, LLC ("IPF"), SBC Portfolio  
 3 Fund, LLC ("SPF"), and their subsidiaries and affiliates (collectively, "Receivership Entities"),  
 4 hereby applies *ex parte* for an order shortening time on his motion for an order authorizing him to  
 5 (a) sell Natoma property; (b) sell Sweet Fingers property; (c) sell Whiskey Junction property; and  
 6 (d) accept a discounted payoff of loan to The Four Brothers Inns, LLC ("Motion").

## 7 I. INTRODUCTION

8 The Motion, which was filed concurrently herewith, is set for hearing on August 23, 2013,  
 9 the hearing date assigned by the Court's courtroom deputy. The Motion seeks authority to sell  
 10 three properties and to accept a discounted payoff of a loan. By this application, the Receiver  
 11 requests an order shortening time on the Motion. The Receiver requests that the motion be heard  
 12 on or before May 10, 2013.<sup>1</sup>

## 13 II. CAUSE FOR SHORTENING TIME

14 There is good cause to hear the Motion on shortened time. One of the properties the  
 15 Receiver seeks authority to sell (the Natoma property) is already in escrow, subject to Court  
 16 approval. Another property (the Whiskey Junction property) has a pending offer from a potential  
 17 purchaser. Furthermore, the proposed loan payoff involves the sale of real property collateral, and  
 18 the property is already in escrow.

19 In the case of the Natoma and Whiskey Junction properties, the respective buyers have to  
 20 wait not just for the order authorizing the sale, but an additional 60 days until the order becomes  
 21 final before title companies will issue title insurance policies.<sup>2</sup> If the Motion is not heard until  
 22 August 23, 2013, there is a good chance the respective buyers for these properties will walk away  
 23 and pursue other real estate opportunities. This could adversely affect the sale prices and the  
 24 recoveries for the receivership estate.

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 26 <sup>1</sup> Two motions filed by Mr. Feathers, Docket Nos. 274 and 275, are already set for hearing on  
 27 May 10, 2013. In the interest of economy, the Receiver requests that this Motion be set for  
 hearing on the same date.

28 <sup>2</sup> Title companies will not issue title insurance policies until the order authorizing the sale has  
 become final. In this case, because a federal agency is a party, the appeal period is 60 days.  
 28 U.S.C. § 2107.

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**III. CONCLUSION**

WHEREFORE, the Receiver requests an order shortening time on the Motion and setting the Motion for hearing on or before May 10, 2013.

Dated: April 24, 2013

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

By: \_\_\_\_\_ /s/ Ted Fates  
TED FATES  
Attorneys for Receiver  
Thomas A. Seaman