

1 JOHN N. TEDFORD IV (State Bar No. 205537)
jtedford@dgdk.com
2 DANNING, GILL, DIAMOND & KOLLITZ, LLP
1900 Avenue of the Stars, Eleventh Floor
3 Los Angeles, California 90067
Telephone: (310) 277-0077
4 Facsimile: (310) 277-5735
5 Attorneys for David A. Gill, Receiver

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 vs.

14 WESTMOORE MANAGEMENT,
15 LLC; WESTMOORE INVESTMENT,
LP.; WESTMOORE CAPITAL
16 MANAGEMENT, INC.;
WESTMOORE CAPITAL, LLC; and
17 MATTHEW R. JENNINGS,

18 Defendants.
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Case No. 8:10-849-AG (MLGx)

**ORDER GRANTING RECEIVER'S
MOTION FOR ORDER LIMITING
MEETING AND NOTICE
REQUIREMENTS IN LOCAL
RULES 7-3 AND 66-7,
ESTABLISHING PROCEDURES
RE: THE SALE OF REAL AND
PERSONAL PROPERTY AND
APPROVAL OF SETTLEMENTS**

Date: December 5, 2011
Time: 10:00 a.m.
Place: Courtroom 10D
411 West Fourth Street
Santa Ana, California

21 On December 5, 2011, the Court heard and considered the *Motion for Order*
22 *Limiting Meeting and Notice Requirements in Local Rules 7-3 and 66-7, Establishing*
23 *Procedures Re: the Sale of Real and Personal Property and Approval of Settlements*
24 (the "Motion") filed by David A. Gill, the Receiver (the "Receiver") for Westmoore
25 Management, LLC, Westmoore Investment, LP, Westmoore Capital Management,
26 Inc., and Westmoore Capital, LLC, and their subsidiaries and entities otherwise
27 majority-owned, managed or controlled, directly or indirectly, by any of them
28 (collectively the "Westmoore Entities"), the Honorable Andrew J. Guilford, United

1 States District Court Judge, presiding. Appearances were as noted on the record at
2 the hearing.

3 The Court having considered the Motion (*docket entry no. 96*) and the *First*
4 *Report of Receiver David A. Gill* filed on October 21, 2011 (*docket entry no. 94*),
5 having heard the statements of counsel at the hearing, for good cause appearing,

6 **IT IS ORDERED THAT:**

7 1. The Motion is granted.

8 2. With respect to all petitions, applications and motions filed by or on
9 behalf of the Receiver in this case, the Receiver shall not be required to adhere to
10 Local Rule 7-3.

11 3. The Receiver shall not be required to serve notices by mail except as
12 provided herein.

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14 **RECEIVER'S SERVICE OF NOTICES ON PARTIES TO BE SERVED BY**
15 **THE COURT VIA THE COURT'S CM/ECF SYSTEM**

16 4. With respect to parties to this case represented by counsel registered to
17 file in the Court's CM/ECF system, the Receiver is authorized to serve notices of all
18 petitions, applications and motions, and the time and place for hearing thereof, by
19 filing such notices with the Court electronically. Service of such notices on those
20 parties shall be deemed complete upon transmission of the Notice of Electronic
21 Filing by the Court.

22
23 **RECEIVER'S SERVICE OF NOTICES BY POSTING COPIES OF NOTICES**
24 **ON THE RECEIVER'S WEBSITE**

25 5. With respect to (a) *pro se* litigants, (b) CM/ECF users who have opted
26 not to receive electronic service, and (c) creditors and parties in interest who are not
27 parties to this case, the Receiver is authorized to serve notices of all petitions,
28 applications and motions, and the time and place for hearing thereof, by posting the

1 notices on www.westmoorereceivership.com. Service of notices on such parties
2 shall be deemed complete upon the posting of the notices on the Receiver's website.

3 6. The foregoing shall not apply to the Receiver's notice, if any, of a
4 deadline for creditors to submit claims to the Receiver. The time and manner of
5 service of any such notice shall be determined by the Court upon future request of
6 the Receiver.

7 7. Except as otherwise provided in this order, with respect to the notice of
8 a hearing on a petition, application or motion in which the Receiver seeks relief as
9 against a particular person or entity, the foregoing shall not apply to the notice given
10 to the person or entity against whom relief is sought. Any such notice shall be served
11 in accordance with the Federal Rules of Civil Procedure, the Court's local rules, and
12 General Order 10-07.

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14 **REQUESTS FOR RECEIPT OF NOTICES BY REGULAR MAIL**

15 8. Creditors and other parties in interest who do not receive Notices of
16 Electronic Filing in this case may request that those notices required to be served on
17 all creditors and parties in interest be sent to them by regular mail. The following
18 applies with respect to such creditors and parties in interest (the "Special Notice
19 Parties"):

20 a. The Special Notice Parties may request that copies of notices
21 required to be served on all creditors and parties in interest be sent to them by regular
22 mail by submitting a written request (a "Written Notice Request") to the Receiver.
23 The Written Notice Request may be submitted by mail or facsimile as follows:

24 David A. Gill, Receiver
25 c/o Westmoore Special Notice Clerk
26 Danning, Gill, Diamond & Kollitz, LLP
27 1900 Avenue of the Stars, Eleventh Floor
28 Los Angeles, CA 90067
Facsimile: (310) 277-5735

1 b. The Written Notice Request shall identify the name of the Special
2 Notice Party submitting the Written Notice Request and identify one mailing address
3 to which notices should be mailed.

4 c. Within one business day after the Receiver posts a notice of a
5 petition, application or motion on the Receiver’s website, the Receiver shall serve a
6 copy of the notice by regular mail on the Special Notice Parties who have submitted
7 Written Notice Requests. Notwithstanding service of a copy of the notice by mail,
8 service of the notice shall be deemed complete upon the posting of the notice on the
9 Receiver’s website.

10 d. The provision in this paragraph 8 for mailing of notices to Special
11 Notice Parties applies only to those notices required by statute or rule to be served on
12 all creditors and parties in interest. Nothing herein shall require the Receiver to mail
13 a notices to the Special Notice Parties submitting Written Notice Requests where the
14 Special Notice Parties are not otherwise entitled to service thereof.

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16 **MOTIONS FOR AUTHORITY TO SELL REAL PROPERTY**

17 9. With respect to a motion by the Receiver for authority to sell real
18 property, the Receiver shall file a motion (a “Sale Motion”) requesting that the Court
19 (a) authorize the Receiver to sell the property to the proposed buyer for the proposed
20 price, (b) authorize the Receiver to pay brokerage commissions and customary
21 closing costs such as escrow and title fees, and (c) grant other appropriate relief
22 relating to the sale.

23 10. The Sale Motion shall be filed and served as a regularly noticed motion.
24 The Sale Motion, any oppositions and any replies shall be subject to, among others,
25 Local Rules 6-1 and 7-4 through 7-16. Notice of the Sale Motion and the hearing
26 thereon may be served by the Receiver in accordance with paragraphs 3 through 8
27 above.

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1 11. The Receiver is authorized, but is not required, to sell real property
2 subject to overbids. In the event that the Receiver seeks to sell real property subject
3 to overbids, the auction shall be held on the record at the hearing on the Sale Motion.
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5 **RECEIVER'S SALE OF PUBLICLY TRADED SECURITIES THROUGH AN**
6 **AGENT ON THE PUBLIC MARKET**

7 12. In the event that the Receiver seeks to sell securities that are publicly
8 traded on a public exchange or "over the counter" through a qualified agent on the
9 public market, the Receiver is authorized to sell the securities and pay ordinary and
10 customary brokerage fees without further notice.
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12 **RECEIVER'S SALE OR ABANDONMENT OF PERSONAL PROPERTY, OR**
13 **COMPROMISE OF LITIGATION AND OTHER DISPUTES**

14 13. With respect to (a) the sale or abandonment of tangible personal
15 property and intangible personal property not covered by paragraph 12 above, and
16 (b) compromises of litigation and other disputes, the Receiver is authorized to give
17 notice of his intent to sell or abandon such property, or to compromise such litigation
18 or other disputes, by (a) filing such notice with the Court, (b) posting a copy of such
19 notice on the Receiver's website, and (c) mailing a copy of such notice to Special
20 Notice Parties who have submitted Written Notice Requests.

21 14. Objections to the Receiver's proposed sale, abandonment or
22 compromise must be (a) in writing and (b) filed with the Court and served in
23 accordance with the Court's Local Rules not later than fourteen (14) days from the
24 date on which the Receiver's notice was filed with the Court or, if later, posted on
25 the Receiver's website.

26 15. If an objection is timely filed and served, the Receiver may file a reply
27 and notice the matter for a hearing. The Receiver is authorized to set the matter for a
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1 hearing on a date that is at least fourteen days from the date on which the Receiver
2 files and serves his reply and the notice of the hearing.

3 16. If no objection is timely filed and served, the Receiver is authorized to
4 proceed with the proposed sale, abandonment or compromise without further notice
5 or order of the Court.

6 17. In the event that the Receiver desires entry of an order authorizing him
7 to sell or abandon the property, or approving the proposed compromise, the Receiver
8 may request entry of such an order by filing an *ex parte* motion after expiration of
9 the fourteen-day objection period.

10 18. Nothing in this order shall be deemed to prohibit the Receiver from
11 seeking entry of an order authorizing him to sell personal property, or compromise
12 litigation and other disputes, by filing a motion on regular notice in accordance with
13 applicable Local Rules.

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16 Date: December 5, 2011



Andrew J. Guilford
U.S. District Judge

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