

1 JOHN N. TEDFORD IV (State Bar No. 205537)
jtedford@dgdk.com
2 KEVIN D. MEEK (State Bar No. 280562)
kmEEK@dgdk.com
3 DANNING, GILL, DIAMOND & KOLLITZ, LLP
1900 Avenue of the Stars, 11th Floor
4 Los Angeles, California 90067
Telephone: (310) 277-0077
5 Facsimile: (310) 277-5735
6 Attorneys for David A. Gill, Receiver

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
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.

Case No. 8:10-cv-00849-AG (MLGx)

**NOTICE OF FILING OF
RECEIVER'S SECOND REPORT
AND ACCOUNT AND FIRST
REQUEST FOR APPROVAL OF
PROFESSIONAL FEES AND
EXPENSES**

Date: June 4, 2012
Time: 10:00 a.m.
Place: Courtroom 10D
411 West Fourth Street
Santa Ana, California

19
20 **PLEASE TAKE NOTICE** that David A. Gill, as the permanent receiver (the
21 "Receiver") appointed in this case, has filed his second report and account and first
22 request for approval of professionals' fees and expenses (the "Report"). The full
23 Report is available on the Receiver's website: www.westmoorereceivership.com.

24 **PLEASE TAKE FURTHER NOTICE** that a hearing on the Report will be
25 held on June 4, 2012, at 10:00 a.m., in Courtroom 10D of the United States District
26 Court for the Central District of California, at which time the Receiver will request
27 that the Court approve the Report and authorize the Receiver to pay professionals the
28 amounts sought by them. Without limiting the significant detail set forth in the

1 Report and exhibits thereto, a summary of the Report and requests by professionals
2 for compensation and reimbursement of expenses is as follows.

3
4 **CASH ON HAND AND SOURCE OF RECEIPTS**

5 As of April 30, 2012, the Receiver had a total of \$517,334.08 of cash on hand.
6 An Accounting Report summarizing all receipts and disbursements from August 12,
7 2011, through April 30, 2012, is attached as Exhibit "1" to the Report and Exhibit
8 "A" to this notice. A detailed itemization of receipts and disbursements during that
9 period is Exhibit "2" to the Report. The Receiver estimates that \$148,000 will be
10 received in the near future from the Receiver's pending sale of a condominium unit
11 located in Seattle, Washington.

12
13 **FEES AND EXPENSES SOUGHT BY THE RECEIVER**

14 The Receiver was appointed pursuant to a judgment of the Court entered on
15 August 12, 2011. The Receiver commenced services before entry of the Judgment,
16 in July 2011, such as by reviewing pleadings, communicating with counsel for the
17 Securities and Exchange Commission ("SEC") regarding the form of the judgment
18 and a stipulation approved by the Court concurrent with entry of the judgment, and
19 preparing to act upon entry of the judgment.

20 The Receiver is requesting compensation and reimbursement of expenses, on
21 an interim basis, from the date he commenced services through March 31, 2012.
22 Pursuant to the Receiver's agreement with the SEC prior to his appointment, the
23 Receiver's billing rate in this case is \$450 per hour, which is significantly less than
24 the rate charged to clients of Mr. Gill's law firm for legal services rendered to the
25 firm's clients (currently \$675 per hour). The billing rate for services rendered by
26 paraprofessionals assisting the Receiver in the administration of his duties currently
27 is \$195 per hour or less. The amounts sought by the Receiver for 134.6 hours of
28 services rendered by the Receiver and his staff are as follows:

1	Fees:	\$ 51,876.50
2	Expenses:	<u>\$ 533.89</u>
3	Total:	\$ 52,410.39

4

5 **FEES AND EXPENSES SOUGHT BY THE RECEIVER’S GENERAL**
6 **COUNSEL, DANNING, GILL, DIAMOND & KOLLITZ, LLP**

7 Danning, Gill, Diamond & Kollitz, LLP (“DGDK”) commenced services to
8 the Receiver prior to entry of the Judgment, in July 2011. Pursuant to an order of the
9 Court, DGDK’s employment is deemed effective as of July 27, 2011, and DGDK has
10 not charged the Receiver for services rendered prior to that date.

11 DGDK is requesting compensation and reimbursement of expenses, on an
12 interim basis, for services rendered from July 27, 2011, through March 30, 2012. At
13 the Receiver’s request, DGDK has agreed to a 20% holdback in payment of the total
14 fees for which approval is sought. The amounts billed, and the amounts for which
15 payment is sought at this time, by DGDK for 725.5 hours of services billed in this
16 case are as follows:

17	Fees billed:	\$ 288,696.00
18	Expenses:	<u>\$ 10,726.46</u>
19	Total billed:	\$ 299,422.46
20	20% holdback:	<u>\$ 57,739.20</u>
21	Payment requested:	\$ 241,683.26

22 The Receiver is requesting that the Court approve DGDK’s fees and expenses in the
23 full amount billed, and authorize payment at this time in the amount of \$241,683.26.

24

25 **FEES AND EXPENSES SOUGHT BY THE RECEIVER’S FORENSIC**
26 **ANALYST AND INVESTIGATOR, PCG CONSULTANTS**

27 PCG Consultants (“PCG”) provides services in this case in two distinct
28 capacities. First, PCG is the Receiver’s field representative, and pursuant to the

1 Court's judgment entered in this case, PCG bills the Receiver and is paid for such
2 services subject only to the Receiver's duty to account to the Court. Second, PCG is
3 the Receiver's forensic analyst and investigator. For PCG's services provided in this
4 capacity, PCG's fees and expenses are subject to Court approval prior to payment.

5 PCG is requesting compensation, on an interim basis, for services rendered as
6 forensic analyst and investigator from January 23, 2012, through April 15, 2012.

7 The amounts billed and sought by PCG for 53.4 hours of services are as follows:

8	Fees:	\$	7,373.00
9	Expenses:	\$	<u>0.00</u>
10	Total:	\$	7,373.00

11 **PLEASE TAKE FURTHER NOTICE** that pursuant to an order of the Court,
12 the Receiver is authorized to serve this notice by posting the notice on the Receiver's
13 website. Service of the notice is deemed complete upon the posting of the notice on
14 the website.

15 **PLEASE TAKE FURTHER NOTICE** that Local Rule 7-9 requires that, not
16 later than twenty-one (21) days before the date designated for the hearing on the
17 motion, any party who objects to the Receiver's report and account and request for
18 payment of professional fees must file with the Court and serve upon the Receiver
19 such opposing party's objection together with all evidence upon which the party
20 intends to rely. Failure to timely comply with this requirement may be deemed by
21 the Court to constitute consent to the relief requested.

22
23 DATED: May 7, 2012

DANNING, GILL, DIAMOND &
KOLLITZ, LLP

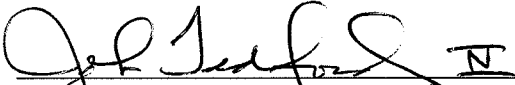
25
26 By: 
JOHN N. TEDFORD IV
27 Attorneys for David A. Gill, Receiver
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EXHIBIT "A"

ACCOUNTING REPORT for WESTMOORE MANAGEMENT, LLC, ET AL. - Cash Basis
Receivership; Civil Court Docket No. 8:10-cv-00849-AG (MLGx)
Reporting Period: 8/12/11 to 4/30/12

BEGINNING CASH BALANCE (AS OF 8/12/11)		\$0.00
RECEIPTS DURING THE REPORTING PERIOD:		
Business Income		\$0.00
Cash and Securities		
-- Cash recovered from deposit accounts	\$1,321.50	
-- Cash (net) received from liquidation of brokerage accounts	\$35,536.25	
-- Cash proceeds from sales of certificated securities	<u>\$0.00</u>	
		\$36,857.75
Notes receivable		\$0.00
Interest/Dividend Income		\$10.92
Sales of real property		
-- Belmont Lofts unit 406 (net receipts)	\$124,002.50	
-- Belmont Lofts unit 409 (net receipts)	\$152,288.11	
-- Belmont Lofts unit 411 (in escrow)	<u>\$0.00</u>	
		\$276,290.61
Sales of personal property other than securities)		\$0.00
Third-Party Litigation Income		
-- Payments re judgment against Matthew Jennings	<u>\$244,926.57</u>	
		\$244,926.57
Miscellaneous - Other		\$0.00
TOTAL RECEIPTS DURING THE REPORTING PERIOD:		\$558,085.85
DISBURSEMENTS DURING THE REPORTING PERIOD:		
Disbursements to Investors/Claimants		\$0.00
Disbursements to Receiver, professionals & field representative		
-- Disbursements to Receiver	\$0.00	
-- Disbursements to Receiver's general counsel	\$0.00	
-- Disbursements to Receiver's tax accountants & advisors	\$0.00	
-- Disbursements to Receiver's forensic analyst	\$0.00	
-- Disbursements to field representative	<u>\$28,598.05</u>	
		\$28,598.05
Business Asset and Operating Expenses		
-- Document storage and retrieval costs	\$5,547.79	
-- Other	<u>\$1,210.77</u>	
		\$6,758.56
Banking and Investment Fees and Expenses		\$1,632.72
Third-Party Litigation Expenses		
-- Costs re subpoenas and document requests	\$3,762.44	
-- Attorneys' fees	\$0.00	
-- Litigation expenses	<u>\$0.00</u>	
		\$3,762.44
TOTAL DISBURSEMENT DURING THE REPORTING PERIOD:		\$40,751.77
ENDING CASH BALANCE (AS OF 4/30/12)		<u>\$517,334.08</u>

1 **PROOF OF SERVICE**

2 At the time of service, I was over 18 years of age and **not a party to this**
3 **action.** I am employed in the County of Los Angeles, State of California. My
4 business address is 1900 Avenue of the Stars, 11th Floor, Los Angeles, CA 90067-4402.

5 On May 7, 2012, I served true copies of the following document(s) described as
6 **NOTICE OF FILING OF RECEIVER'S SECOND REPORT AND ACCOUNT AND FIRST REQUEST FOR APPROVAL OF PROFESSIONAL FEES AND EXPENSES** on the interested parties in this action as follows:

7 **SEE ATTACHED SERVICE LIST**

8 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package
9 addressed to the persons at the addresses listed in the Service List and placed the
10 envelope for collection and mailing, following our ordinary business practices. I am
11 readily familiar with Danning, Gill, Diamond & Kollitz, LLP's practice for collecting
12 and processing correspondence for mailing. On the same day that the
13 correspondence is placed for collection and mailing, it is deposited in the ordinary
14 course of business with the United States Postal Service, in a sealed envelope with
15 postage fully prepaid.

16 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed
17 the document(s) with the Clerk of the Court by using the CM/ECF system.
18 Participants in the case who are registered CM/ECF users will be served by the
19 CM/ECF system. Participants in the case who are not registered CM/ECF users will
20 be served by mail or by other means permitted by the court rules.

21 I declare under penalty of perjury under the laws of the United States of
22 America that the foregoing is true and correct and that I am employed in the office of
23 a member of the bar of this Court at whose direction the service was made.

24 Executed on May 7, 2012, at Los Angeles, California.

25 
26 _____
27 CINDY CRIPE
28

1 *Counsel for Plaintiff*
2 *Securities and Exchange Commission*

3 Spencer E. Bendell, Esq.
4 Sam S. Puathasnanon, Esq.
5 Securities & Exchange Commission
6 5670 Wilshire Blvd., 11th Floor
7 Los Angeles, CA 90036

8 *Parties requesting service of notices by mail*

9 Eleanor M. Egan Living Trust
10 ATTN: Eleanor Egan, Trustee
11 1893 Parkview Circle
12 Costa Mesa, CA 92627

13 Phyllis Fredericks
14 3718 Oakview Court
15 Fallbrook, CA 92028

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