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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

SUNWEST MANAGEMENT, INC.,
CANYON CREEK DEVELOPMENT,
INC., CANYON CREEK FINANCIAL,
LLC, AND JOHN M. HARDER,

Defendants,

DARRYL E. FISHER, ET AL.,

Relief Defendants.

Case No. 09-6056-HO
**RECEIVER MICHAEL A.
GRASSMUECK'S MOTION
FOR APPROVAL OF SETTLEMENT
WITH GROVE, MUELLER &
SWANK, P.C. AND FOR ENTRY OF
CLAIMS BAR ORDER**

MICHAEL A. GRASSMUECK,
Receiver,

Plaintiff

vs.

GROVE, MUELLER & SWANK, P.C.

Defendant

Case No. 09-CV-0650-HO

MOTION

Please take notice that on September 20, 2011 at 1:30 p.m. or as soon as the matter may be heard in the above-captioned actions, in the Courtroom of the Honorable Michael Hogan at the Wayne L. Morse United States Courthouse, 405 East Eighth Avenue, Eugene, Oregon 97401, Michael A. Grassmueck, the duly appointed receiver ("Receiver") pursuant to orders in *SEC v. Sunwest Mgmt., Inc.*, Case No. 09-CV-6056-HO (the "SEC Action") for Sunwest Management, Inc., Canyon Creek Development, Inc., Canyon Creek Financial, LLC, Fuse Advertising, Inc., KDA Construction, Inc., and other entities (collectively, "the Receivership Entities"), will, and hereby does, move the Court for an order approving the settlement and settlement agreement (the "Settlement" and "Settlement Agreement") entered into between the Receiver¹ and Grove, Mueller & Swank, P.C. ("GMS") and entering a Final Claims Bar Order with respect thereto. A true and correct copy of the Settlement Agreement is attached to the Memorandum of Points & Authorities as Exhibit 1.

The Receiver has asserted claims against GMS on behalf of Sunwest investors and the Receivership Entities in *Grassmueck v. Grove, Mueller & Swank, P.C.*, Case No. 09-CV-0650-HO, (the "GMS Case"). The Receiver has also received assignments of claims, asserted or unasserted, against GMS from Sunwest investors, creditors, and claimants (the "Third Party Claims"), pursuant to the Plan of Distribution approved on October 2, 2009, in the SEC Case; the Receiver's, CRO's and Debtor's Second Amended Joint Plan of Reorganization (May 27, 2010), filed in the Bankruptcy Case; and the Order Re Assignment of All Sunwest Investors' and Claimants' Rights and Claims Against Certain Third Parties to Receiver dated April 7, 2011 (the "Assignment Order").

¹ Terms not otherwise defined herein are as defined in the Settlement Agreement.

The Settlement resolves claims in the GMS Case and the Assigned Claims, as to GMS, as well as claims by GMS against the Receivership Entities, and will represent a significant recovery by the Receiver for the Litigation Trust established pursuant to the Distribution Plan in the SEC Action. One of the major issues with regard to the Settlement is the ability of the Receiver and others to provide a full release of claims to GMS, including a release with regard to claims that might be asserted by third parties. To resolve this issue and others, the Settlement calls for entry of an order which would bar any further claims by certain groups including third parties against GMS for damages arising from their conduct related to the activities of Sunwest Entities including Sunwest Management, Inc. and its principals, including claims arising from the sale, purchase, or solicitation of Sunwest investments.

The Motion is based on the concurrently filed Memorandum of Points & Authorities, the Settlement Agreement attached thereto, the Declaration of Michael Grassmueck, the files of the Court in the SEC Action and the GMS Case, and such further evidence and argument as may be submitted in reply to any opposition and as may be presented at the hearing on this Motion.

Dated: August 18, 2011

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By /s/ Francis N. Scollan
FRANCIS N. SCOLLAN
Attorneys for Michael A. Grassmueck,
Court Appointed Receiver