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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

NOTICE OF:

(1) MOTION FOR APPROVAL OF  
SETTLEMENTS WITH CERTAIN  
EMPLOYEES

(2) PROPOSED FINAL CLAIM BAR ORDER

(3) HEARING DATE

**THIS IS A LEGAL NOTICE THAT MAY AFFECT YOUR RIGHTS**

Michael A. Grassmueck, the duly appointed receiver ("Receiver") in the above-captioned action entitled *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"), hereby gives **NOTICE** of the following:

### **I. MOTION FOR APPROVAL OF SETTLEMENT**

The Receiver is bringing a motion ("Settlement Approval Motion") requesting an order from the District Court (1) approving settlements and settlement agreements<sup>1</sup> (the "Settlements" and "Settlement Agreements") entered into between the Receiver, on the one hand, and certain settling employees ("Settling Employees") as identified in Exhibit 1 to the Settlement Approval Motion and set forth herein, and (2) entering a Final Claims Bar Order with respect thereto.

The Settling Employees filed proofs of claim in the Receivership proceedings (the "Employee Claims") to which the Receiver made certain objections. The Receivership Orders and Distribution Plan in the SEC Action authorized the Receiver to pursue claims of the Receivership Entities against third parties for the benefit of investors and creditors of the Receivership Entities. The Receiver received an assignment of claims, asserted or unasserted, against the Settling Employees from Sunwest investors, creditors, and claimants (the "Third Party Claims"), pursuant to the Distribution Plan and the Second Amended Joint Plan of Reorganization, filed in the bankruptcy proceedings.

The settlements would resolve the Receiver's claims against the Settling Employees including Third Party Claims, and would resolve the Employee Claims. The Receiver and the Settling Employees intend through the settlements to fully and finally resolve any and all claims against the Settling Employees relating to the common core of operative facts addressed in the SEC Action and enter into mutual releases.

Copies of the Settlement Approval Motion papers are available at the Receiver's website at [www.grassmueckgroup.com/sunwest.php](http://www.grassmueckgroup.com/sunwest.php); through the District Court's Pacer/ECF/CM website (registration and fee required); or, by requesting a copy from the Receiver at (866) 674-6791 or (503) -294-9928.

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<sup>1</sup> The Settlement Agreements have certain defined terms, including certain terms used herein. A copy of the form of Settlement Agreement is part of the Settlement Approval Motion and may be obtained as below.

## II. FINAL CLAIM BAR ORDER

The Settlement calls for, and the Settlement Approval Motion seeks, a "**Final Claim Bar Order**" which would bar any further claims by certain persons including third parties against any Settling Employee arising from his or her conduct related to the activities of Sunwest Management, Inc., any Receivership Entity, and their principals.

The proposed Claims Bar Order provides that it is binding on the Receiver; the CRO; the Debtor; all Sunwest investors, creditors, and claimants, known and unknown; all parties in any pending federal or state court litigation involving the Settling Employee; all parties in any arbitrations involving Sunwest investments; the Receivership Entities; Sunwest Entities; the HFG Parties; all other professionals who provided services to the Receivership Entities, Sunwest Entities, and the HFG Parties, any other interested parties who may have Sunwest-related claims; along with the heirs, assigns and successors in interest of any of the above-named parties.

The proposed Claims Bar Order would apply to all claims against the Settling Employee for damages arising from his or her conduct related to the activities of Sunwest Management, Inc., any Receivership Entity, and their principals, including claims arising from the sale, purchase, or solicitation of Sunwest investments. These claims include, but are not limited to, claims on guarantees, claims made under Section 10 of the 1934 Act and Rule 10b-5 (including, but not limited to, any claims for unsuitability, fraud, misrepresentation, or negligence), violation of the 1933 Act, violations of any other applicable securities laws (both federal and state for both primary and secondary liability), breach of contract, misrepresentation, conversion, vicarious/control person liability, negligence (including failure to supervise), violations of FINRA, SEC, or state regulatory rules, compensatory damage claims, punitive damage claims, and all claims related thereto and thereafter, including, but not by way of limitation, any claims for fraud, deceit, breach of fiduciary duty, suitability, churning, compensatory damages, punitive damages, attorney fees and costs, and vicarious liability for such claims, and any other claims arising from the sale, purchase, or solicitation of Sunwest investments, or the common core of operative facts addressed in the Sunwest Proceedings.

**III. HEARING DATE ON MOTION FOR SETTLEMENT APPROVAL AND  
CLAIMS BAR ORDER**

On September 20, 2011, at 1:30 p.m. the District Court will conduct a hearing on the Receiver's Settlement Approval Motion, including the entry of Final Claim Bar Order. The District Court is located at 405 East Eighth Avenue, Suite 2100, Eugene, Oregon 97401-2712. The Court may also establish a telephone conference line for the hearing; if you intend to appear by telephone, please inform Receiver's counsel at the address above.

Depending on developments, it is possible that the hearing date may be continued to a later date. You are welcome to attend the hearing, but you are not required to do so.

If you wish to oppose the Settlement Approval Motion, you must file your opposition with the District Court at United States District Court, District of Oregon, Eugene Division, 405 East Eighth Avenue, Suite 2100, Eugene, Oregon 97401-2712 and serve it on counsel for the Receiver at Allen Matkins Leck Gamble Mallory & Natsis LLP, Attn: Francis N. Scollan, 515 S. Figueroa St. 9<sup>th</sup> Floor, Los Angeles, California 90071.

**EXHIBIT 1: SETTLING EMPLOYEES**

Byron Grant	Jo Ellen Robinson	Nicole Brophy
Brett D. Salmon	James P. Estes III	Edward R. Pierce
Curtis Brody	John Stephen Gordon	Sebastian T. Brown
Chelsey Callahan	Joey Joy	Shain Pearse
Daniel Fish	Jeffrey Schumacher	Douglas Sproul
Deana Altman Nelson	Kristine Bernard	Scott W. Ramey
D. Douglas Treganowan	Kristin Lee Petersen	Steven R. Stradley
Francis J. Curtis	Kathy L. White	M. Suzanne Towery
Fred Harder	Kelly Harder	Thomas F. Biesiadecki
Gregory Biggs	Michael Deines	Timothy R. Harmon
Huyen Van Dinh	Michael Joe Stephenson	Thomas J. Wettlaufer