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4 Temporary Receiver
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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 SECURITIES AND EXCHANGE)
COMMISSION,)
12)
Plaintiff,)
13)
vs.)
14)
15 DIVERSIFIED LENDING GROUP,)
INC.; APPLIED EQUITIES, INC.; AND)
16 BRUCE FRIEDMAN,)
17)
Defendants.)
18 and)
19 TINA M. PLACOURAKIS,)
20)
Relief Defendant.)
21

Case No. CV 09-01533-R-JTLx
**FIRST REPORT OF
TEMPORARY RECEIVER**
Date: March 10, 2009
Time: 10:00 a.m.
Place: Courtroom 8
312 North Spring Street
Los Angeles, CA

22 TO THE HONORABLE MANUEL L. REAL, DISTRICT JUDGE AND TO
23 THE PARTIES IN INTEREST:
24

25 For a first and preliminary report, David A. Gill respectfully reports as
26 follows:

27 I am the Temporary Receiver appointed by this Court for Diversified Lending
28 Group, Inc. ("DLG"), and Applied Equities, Inc. ("AEI") (collectively, the "Entity

1 Defendants”) in its “Temporary Restraining Order and Orders: (1) Freezing Assets,
2 (2) Appointing a Temporary Receiver, (3) Prohibiting the Destruction of Documents,
3 (4) Granting Expedited Discovery, and (5) Requiring Accountings; and Order to
4 Show Cause re Preliminary Injunction and Appointment of Permanent Receiver
5 (“Temporary Restraining Order”). This report is necessarily brief, given that it
6 reflects only three days of activity in this very complicated matter. A principal caveat
7 is that we have only scratched the surface and will file a more comprehensive report
8 as soon as the preliminary investigative phase of the case is concluded.

9
10 Initial Activities; First Two Days

11
12 On March 4, 2009 I was appointed as Temporary Receiver in the above
13 captioned matter. I received the Temporary Restraining Order appointing me as
14 Temporary Receiver early on March 5, 2009, and, within the hour, with my counsel,
15 accountants and field personnel, took possession of the business premises of the
16 Entity Defendants in Sherman Oaks, California. The Entity Defendants and Mr.
17 Bruce Friedman obviously expected us and politely complied with our requests. We
18 also sought to take possession of business premises in Monrovia, but discovered that
19 the operations in Monrovia had been moved to the Sherman Oaks location.

20
21 Our first task was to preserve assets and attempt to maintain the *status quo*
22 *ante*. In that connection, we did the following, among other things. We gave notice to
23 the two financial institutions which we understand were the only financial
24 institutions used by the Entity Defendants. We asked that all employees vacate the
25 premises. We changed the locks, obtained computer codes and safe combinations,
26 secured the computers and data thereon located at the premises. Many of the
27 physical files were flagged as having been removed and delivered either to Kirkland
28 & Ellis, as counsel to the Entity defendants, or the S.E.C. We spoke with counsel at

1 Kirkland & Ellis, learned that they had finished reviewing the physical files, and
2 requested their return. We cut off external access to electronic files and systems.
3 We arranged for and completed a physical inventory of property onsite. We
4 arranged for responses to creditor and investor inquiries.
5

6 We made an initial review of the financial records of the Entity Defendants.
7 We were not been provided with and could not locate financial statements and
8 supporting documentation typically maintained by an operating business. Mr.
9 Friedman stated that there is no balance sheet for the entire business. Instead, the
10 business' financial reporting system seems to be limited to several segregated
11 electronic checkbooks maintained on Quickbooks. The balance sheet, income
12 statement, and other financial statements, and the related supporting documentation
13 are fundamental business records, which would facilitate our understanding of the
14 business' assets, liabilities, and operations. The absence of these basic records
15 significantly limited our ability to identify business assets in the time available.
16

17 Mr. Friedman also stated that an outside "forensic" accountant was recently
18 retained by Kirkland & Ellis, then counsel to the Entity Defendants, to prepare
19 financial statements for the business. (We have been advised that the forensic
20 accountant is not a licensed Certified Public Accountant.) We believe that this
21 accountant may possess completed or partially completed work product, and should
22 have source documentation which may be useful to our efforts to identify business
23 assets as well as to assist the Defendants in complying with their duties under
24 paragraph XVI of the Initial Order.
25

26 On March 5 we also identified key employees and commenced to interview
27 them. On that day along with other personnel with whom we met, we spent two
28 hours with Mr. Bruce Friedman, who began to answer our questions about assets and

1 transfers, and we arranged for a more comprehensive meeting on the next day, March
2 6. On March 6, we interviewed Ms. Shirley Howard, the office manager of DLG,
3 involved in supervision of employees, payroll, bill paying, and the like. On the same
4 day we met with Robert Mayer, Esq., who stated that, as an attorney he represented
5 DLG with respect to some of its investment transactions. He provided an overview
6 of DLG's investments, as to some of which he had substantially more information,
7 and as to some of which he had only a passing familiarity. He agreed to permit an
8 inspection of his files.

9
10 There were 14 employees on payroll, occupying handsome quarters at
11 approximately \$26,000 per month rental. It soon became clear that the only person
12 likely familiar with the totality of the enterprise was Mr. Friedman, and that
13 otherwise activities and functions were highly compartmentalized.

14
15 We had arranged to meet on March 6 with Mr. Friedman and Ms. Karen
16 O'Callaghan. Ms. O'Callaghan was identified as a senior employee and the officer
17 most knowledgeable about DLG's loans and certain investments. Neither person
18 appeared. We were advised by Mr. Mayer that each of them or their representatives
19 had advised him to tell us that non-appearance was at the instruction of their
20 respective counsel. This is a cause for concern, as we believe that there are various
21 activities and financial transactions pending, in which we should become involved,
22 some of which may be of a priority nature, and Mr. Friedman and Ms. O'Callaghan
23 appear to be the most knowledgeable persons within our reach. If they do not
24 cooperate voluntarily we will immediately institute short-notice discovery as
25 provided for in the Temporary Restraining Order.

26
27 As of close of business on March 7, we have not yet succeeded in obtaining
28 possession of the financial accounts identified in the Temporary Restraining Order,

1 but the accounts were blocked by the S.E.C. and by us minutes after the issuance of
2 the Temporary Restraining Order. We worked with the two financial institutions
3 identified as the only financial institutions involved, and we have not learned of
4 others in our limited investigation so far. We have been working with the financial
5 institutions and anticipate access to the accounts within a few days. Thus far, we
6 have information on funds on deposit at Wells Fargo Bank, aggregating
7 \$1,237,281.36, including one account not scheduled in the Temporary Restraining
8 Order. We are not yet clear if there are any legal impediments to accessing all of
9 such funds, e.g., if they are in the nature of trust funds or subject to some other claim.
10 Our preliminary UCC search shows no encumbrances of record but I do not know if
11 Wells Fargo Bank has a security interest in some or all of the deposit accounts. We
12 have not yet ascertained the amount and nature of accounts at Merrill Lynch, but are
13 in contact with them. We do not know if I have rights to moneys held by or for the
14 Friedman Charitable Foundation, and will not act to take possession thereof unless
15 and until my rights therein are clarified.

16
17 We continue to investigate. We look forward to the filing by Defendants of the
18 report that they were ordered to file in Paragraph XVI of the Initial Order, which will
19 be most helpful. What we did learn, although we are not able to verify everything
20 what we were told, is summarized as follows.

21
22 Manner of Operation

23
24 The Entity Defendants appear to have received funds from investors on the
25 basis set forth in the Complaint and the S.E.C.'s motion papers. That is, investors
26 appear to have agreed to provide funds to the Entity Defendants in return for a
27 promised 9% to 12% guaranteed rate of return. Certain funds were supposedly
28 secured by insurance from Jackson National Life. AEI made the monthly payments

1 to investors, which was funded by a bulk transfer from DLG. We are advised that no
2 payment was made for March 2009, although we could review the schedule of
3 payments for that month. DLG used the funds obtained from investors to make
4 commercial loans and equity investments in a variety of businesses, some of which
5 are described below. However, it also appears that obviously significant sums were
6 used by DLG to fund Mr. Friedman's lifestyle and charitable contributions. We do
7 not yet have a complete "handle" on these, and are concerned that some of the
8 investments may have been improvident. We do not yet have an understanding of
9 fund transfers such as were described in the S.E.C.'s motion.

10
11 DLG was said to be receiving funds in connection with loans it made but we
12 were unable to ascertain the amounts or face values of loans receivable or the
13 numbers of such borrowers. Mr. Friedman indicated that there were perhaps 20
14 loans, aggregating receivables of \$10 to \$12 million. However Ms. Howard, the
15 DLG office manager, who said that she was responsible for receiving and opening
16 mail, indicated that she was aware only of two loan obligors and that perhaps
17 \$10,000 per month was received by her. Obviously there is a disconnect, and we
18 suspect that the portfolio was larger than reported by her. Ms. O'Callaghan is an
19 important person whose information would be helpful in most quickly ascertaining
20 this information about the loans. It does appear that Mr. Friedman
21 compartmentalized his business into discrete areas, and Ms. Howard, along with
22 other employees of the Entity Defendants with whom we spoke, indicated ignorance
23 of many of the activities going on at the same location.

24
25 Assets

26 Obviously we have not yet learned the basic facts concerning DLG's
27 investments, but we know enough to know where to begin searching. We are in
28 hopes that Mr. Friedman and Ms O'Callaghan will cooperate and facilitate this

1 process. The assets of which we are aware consist generally of office furniture
2 fixtures and equipment, cash, accounts, investments in the form of owned real estate,
3 ownership or equity interests in entities owning real property, commercial and non-
4 commercial loans, and tangible and intangible personal property.

5
6 In view of the unavailability of Ms. O'Callaghan, we were unable to ascertain
7 the facts as to DLG's various commercial loan assets. These commercial loans were
8 described as a significant category of DLG assets. Accordingly, we are not
9 comfortable in reporting as to the extent or enforceability of loans receivable, absent
10 further information. We have heard that there may be real property in addition to
11 that mentioned below, vested in DLG, possibly by reason of foreclosure, and perhaps
12 other real property as well, which we have not yet identified

13
14 As to investments, we have been told that the following reflect the totality of
15 investments, but, again, for us it is but a starting point. We have not been provided
16 with information that would allow us to evaluate or estimate the current value of the
17 above items, and of course will ultimately independently verify the facts and values.
18 The investments of which we have been advised are:

- 19
- 20 • Consolidated Healthcare Services, Inc.
 - 21 ○ DLG invested approximately \$30 million in this diagnostic imaging
 - 22 venture.
 - 23 ○ DLG may possess a 50% equity interest.
 - 24 ○ Subsidiary entities include: Horizon Healthcare, Hallmark Medical, and
 - 25 Ambulatory Services.
 - 26 • Action Wobble, Inc.
 - 27 ○ DLG invested approximately \$2 million in this marketing venture.
 - 28 ○ DLG may possess a 2% equity interest.

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- Bethany Holdings
 - DLG loaned approximately \$13 million to Bethany Holdings, an owner and operator of large apartment buildings.
 - Transaction described as a “Principal to Principal” loan.
 - DLG may hold an 80% equity interest in a 400 unit apartment building.
 - Subsidiary entities (locations) include: Gulfstream, SE Portfolio, Phoenix Kingdom, Chesapeake Bay, Lonestar, Blanding Place, Austin, Colorado, and Summit.
- Kachay Apartments
 - DLG invested approximately \$6 million in these apartment complex projects.
 - DLG may hold 50% equity interests in the two LLCs.
 - Locations include El Centro, California and Brawley, California.
- Browns Field International Business Park
 - DLG invested approximately \$6 million in the development of the area surrounding the Browns Field airport east of San Diego, California.
 - DLG may hold a 50% equity interest in the project.
- Wind Options
 - DLG invested approximately \$4 million in this alternative energy enterprise.
 - DLG may hold a 25% equity interest in the entity.
- Desert Land Ventures III
 - DLG invested approximately \$4 to \$5 million in this Palm Springs, California venture.
 - DLG may hold a 52% equity interest.

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- Victorville Property Development
 - DLG invested approximately \$3.5 million in this Victorville, California property development project.
 - DLG may hold a 100% equity interest in this project.
- Kidfresh
 - DLG invested approximately \$3 million in this business which prepares and sells healthy children's food.
 - DLG may hold a one-third equity interest.
- Club Kid'doo (Makin' Fun, Inc.)
 - DLG invested \$6 to \$7 million in this New Jersey based educational enrichment and childcare entity.
 - DLG may hold a 50% equity interest in this entity.
 - Subsidiary entities include: YakkaToy.com, YakkaToy Harbor, All New Materials, and Rhonda's Salons
- BRAT Entertainment, Inc.
 - DLG invested approximately \$50,000 in this talent agency.
- Roc Doc LLC
 - DLG invested approximately \$800,000 in this film production entity, which has completed a feature film.
 - DLG may hold a one-third equity interest.
- RWSI
 - DLG invested approximately \$3 million in this water feature construction company.
 - DLG may hold a 50% equity interest.

- 1 • Mydonose (Mango franchisee)
 - 2 ○ DLG invested approximately \$6.3 million in this women's fashion
 - 3 franchisee.
 - 4 ○ DLG may hold a 49% equity interest in the entity.
 - 5 ○ DLG is litigating to recover this investment.
- 6 • Sunwest Bottlers
 - 7 ○ DLG invested approximately \$3 million in this Phoenix, Arizona based
 - 8 water bottling company.
 - 9 ○ DLG may hold a 100% equity interest.
 - 10 ○ Tina Placourakis is operating this business.
- 11 • Voyager Entertainment
 - 12 ○ DLG loaned approximately \$1.25 million to this entity.
- 13 • Applied Equities, Inc
 - 14 ○ Captive DLG entity that existed for purpose of making distributions to
 - 15 investors.
- 16 • CAC
 - 17 ○ Mexico development secured by resort land.
 - 18 ○ Loan is in default.
- 19 • Coastal Ventures
 - 20 ○ DLG loaned approximately \$2 million related to this North Carolina
 - 21 golf course and residential development.
- 22 • Grupo Gardner, Las Flores
 - 23 ○ DLG made loan with an equity component related to this Mexico
 - 24 property.
- 25 • Mondrian
 - 26 ○ Arrangement to finance development of Mondrian Hotel in Palm
 - 27 Springs, California.
 - 28

- 1 • Sam Bell Fitness
 - 2 ○ DLG invested approximately \$200,000 - \$300,000 in Sam Bell Fitness
 - 3 enterprise.
- 4 • DLG-3, Palm Springs International
 - 5 ○ No additional information provided.
- 6 • DLG International
 - 7 ○ Panamanian company, no additional information found.
- 8 • Robert Fields
 - 9 ○ DLG loaned approximately \$250,000 to Robert Fields.
- 10 • Steve Nikolas
 - 11 ○ DLG provided approximately \$250,000 - \$300,000 to Steve Nikolas.
- 12 • Robert Knight Photos
 - 13 ○ DLG loaned approximately \$500,000 to Robert Knight.
- 14 • MMHIM
 - 15 ○ DLG purchased two homes
 - 16 ○ #1: Malibu, California – approximately \$6 million, subject to a \$2
 - 17 million trust deed.
 - 18 ○ #2: New Jersey – occupied by Club Kid'Doo (Makin' Fun) executive.

19
20 Anticipated Activities in the Near Term

21 If confirmed as receiver, it is my intention to quickly do the following, as to
22 some of which I will seek specific court authority if not specifically authorized in the
23 Temporary Restraining Order. I intend to do the following:

- 24 • If there are sufficient funds, we will make the back payroll due up to the
25 day of my seizure of the businesses. It is my intention to cover health insurance for
26 several months, if we are in a financial position to do so, to give employees a chance
27 to protect themselves and motivate cooperation on their part.

- 1 • We will seek to identify and retain a few personnel to work on
2 collections of loans under my supervision.
- 3 • We will either interview Mr. Friedman, Ms. O'Callaghan and other
4 employees or depose them in the expedited process authorized by the Initial Order.
- 5 • We will identify problems requiring immediate action.
- 6 • We will create a website to which creditors and investors may refer to
7 obtain up to date information and answers to frequently asked questions.
- 8 • We will consider moving to smaller, less expensive quarters, and
9 liquidating furniture, fixtures, equipment and art, on notice to interested parties.
- 10 • We will give appropriate notice of my interest in the various properties
11 and businesses in which DLG invested.
- 12 • We will carefully scrutinize each investment and asset and arrange for
13 physical inspection of properties and businesses if there is any question as to values,
14 conditions and circumstances.
- 15 • We will examine all transfers of record by the Entity Defendants over a
16 lengthy period, and any others that we might discover with a view toward
17 considering the merits of the transfers; and determining if cause exists to seek to
18 recover them.
- 19 • We will investigate into possible causes of action which might be
20 beneficial to the estate.

21
22 Staffing

23 I have utilized and anticipate continuing to use various representatives, agents
24 and professionals as the need arises to deal with properties or investments as to
25 properties located in several states, including Florida. I am utilizing the services of
26 excellent forensic accountants, identified in the moving papers, field personnel and
27 counsel. If confirmed, I anticipate filing a separate application as to counsel if
28 necessary. All retentions of counsel will be with prior court authority. It is too soon


1 to know about the manner in which the estate will be managed, whether in
2 cooperation with the Defendants or otherwise, but I hope that we will be able to work
3 together to maximize recoveries for the creditors and investors, which should be in
4 the best interests of all parties.

5
6 Receipts and Disbursements

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8 I am chargeable with the tangible property described above and have made no
9 disbursements.

10 March 9, 2009

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12 Respectfully Submitted,

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15 _____
16 DAVID A. GILL
17 Temporary Receiver
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PROOF OF SERVICE

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I, Cindy Cripe, declare:

I am employed by the law firm of DANNING, GILL, DIAMOND & KOLLITZ, LLP, in the County of Los Angeles, State of California. I am employed in the office of a member of the bar of this court at whose direction the service was made. I am over the age of 18 years and am not a party to the within action. My business address is 2029 Century Park East, Third Floor, Los Angeles, California 90067-2904.

On March 9, 2009, I served the following document(s): RECEIVER'S REPORT on the interested parties addressed as follows:

SEE ATTACHED MAILING LIST

(By Mail) I placed the document for collection and deposit in the mail. I am familiar with this firm's practice for the collection and processing of correspondence for mailing. Under that practice, the document would be placed in a sealed envelope and deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at 2029 Century Park East, Third Floor, Los Angeles, California 90067-2904, in the ordinary course of business. The documents served were placed in sealed envelopes and placed for collection and mailing following ordinary business practices.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

(Federal) I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the State of California and of the United States of America that the foregoing is true and correct.

Executed on March 9, 2009, at Los Angeles, California.

Cindy Cripe

(Type or print name)

Cindy Cripe

(Signature)

