

1 GEORGE E. SCHULMAN (State Bar No. 064572)
gschulman@dgdk.com
2 KATHY BAZOIAN PHELPS (State Bar No. 155564)
kphelps@dgdk.com
3 UZZI O. RAANAN (State Bar No. 162747)
uraanan@dgdk.com
4 DANNING, GILL, DIAMOND & KOLLITZ, LLP
2029 Century Park East, Third Floor
5 Los Angeles, California 90067-2904
Telephone: (310) 277-0077
6 Facsimile: (310) 277-5735

7 Attorneys for David A. Gill, Receiver

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

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)
21)

22 Relief Defendant.)
23)
24)

Case No. CV 09-01533-R-JTLx

**NOTICE OF EX PARTE
APPLICATION AND EX PARTE
APPLICATION OF RECEIVER
FOR**

**(A) SHORTENED TIME FOR
NOTICE ON MOTION FOR
APPROVAL OF:**

**(1) SALE OF 174 UPPER
MOUNTAIN AVENUE,
MONTCLAIR NEW
JERSEY; AND (2)**

**PAYMENT OF BROKERS'
COMMISSION;**

**(B) LIMITED NOTICE ON SALE
MOTION; DECLARATION OF
DAVID A. GILL IN SUPPORT
THEREOF**

Date: [To be Set By Court]

Time: [To be Set By Court]

Place: Courtroom 8
312 North Spring Street
Los Angeles, CA

25
26
27
28

1 **TO THE HONORABLE MANUEL L. REAL, DISTRICT COURT**
2 **JUDGE AND TO THE PARTIES IN INTEREST:**

3 David A. Gill, the Permanent Receiver (the "Receiver") in the above-
4 captioned case (the "Case"), hereby applies (the "Application") on an ex parte basis,
5 pursuant to Local Rule 7-19, for shortened time for hearing on his Motion for
6 Approval of 174 Upper Mountain Avenue, Montclair New Jersey; and Payment of
7 Broker's Commission (the "Sale Motion"); and for permission to serve the Motion
8 on a limited service list.

9 This Application is made on an ex parte basis because the Receiver has
10 entered into a real estate contract to sell the property of the receivership estate
11 identified as 174 Upper Mountain Ave., Montclair New Jersey, but the purchasers of
12 the Property have made a condition of the purchase that court approval of the
13 proposed sale be obtained no later than May 27, 2009. The Receiver is advised that
14 the first regularly scheduled hearing date which would permit the Receiver to file his
15 Sale Motion on regular notice would be June 1, 2009, but that, even though June 1,
16 2009 is already too late, said date is not available in any event. Accordingly, it is
17 necessary for the Receiver to have the Motion heard on a date early than May 27,
18 2009. The Court's clerk has advised that the available date for such a hearing would
19 be the court's regular law and motion calendar date of May 18, 2009 at 10:00 a.m.

20 Accordingly, the Receiver requests that this Court authorize shortened time for
21 notice on his Motion and permit the hearing on the Motion to take place on May 18,
22 2009 at 10:00 a.m.

23 Additionally, the Receiver has filed an Omnibus Motion seeking, among other
24 things, permission to serve notices of motions regarding the sale of real property on a
25 limited service list in light of the large volume of creditors in this case and the costs
26 attendant to serving each and every creditor with substantive pleadings and notices.
27 The Omnibus Motion is set for hearing on May 4, 2009, and has therefore not yet
28 been ruled upon by the Court. No objections have been made to the relief requested

1 in the Omnibus Motion, including no objection to the proposed limited notice
2 procedure. Notice of the Omnibus Motion and the proposed limited notice procedure
3 was served on all creditors, who were given an opportunity to object to the proposed
4 procedure. No creditor or party in interest has objected to the limited notice
5 procedure.

6 Accordingly, the Receiver requests authority to serve notice of his Sale Motion
7 on the Limited Service List as set forth in the Omnibus Motion and herein.

8 This Application is based on the attached Memorandum of Points and
9 Authorities, the Declaration of David A. Gill, and upon such other grounds as may
10 properly be presented to the Court upon request. A separate Order approving this
11 Application has been lodged with the Court.

12 The attorneys for the parties or the parties to the Case are:

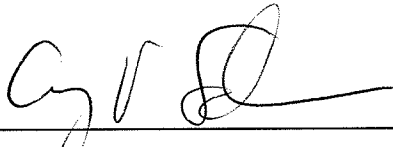
- 13 1. John M. McCoy III , counsel for Plaintiff Security and Exchange
14 Commission, 5670 Wilshire Blvd., 11th Floor, Los Angeles, CA 90036;
 - 15 2. Richard Elliott Drooyan, at Munger Tolles & Olson LLP, 355 S. Grand
16 Ave, 35th Floor, Los Angeles, CA 90017, counsel for Defendant Bruce Friedman;
 - 17 3. Brian Mueller, at Mariscal, Weeks, McIntyre & Friedlander, P.A., 2901
18 N. Central Ave., Suite 200, Phoenix, AZ 85012, counsel for Defendant Tina M.
19 Placourakis (courtesy copy, as counsel has not appeared in this case);
 - 20 4. Defendant Tina M. Placourakis, at 2121 W. Willetta Street, Phoenix,
21 Az. 85009.
- 22
23
24
25
26
27
28

1 On April 27, 2009, the Receiver notified the above parties-in-interest, inter
2 alia, of his intent to file this Application and the reasons thereof, via a letter faxed to
3 the parties and/or their counsel, including a copy of this Application, and by calling
4 counsel and Ms. Placourakis and providing them telephonic notice. None of the
5 parties expressed opposition to the Application, or to the fact that the Receiver filed
6 his request on an ex parte basis.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: April 27, 2009

DANNING, GILL, DIAMOND & KOLLITZ, LLP

By: 
George E. Schulman
Attorneys for David A. Gill,
Permanent Receiver

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 The Receiver seeks to shorten the time for notice and the extent of notice to be
4 served relating to his Motion to sell the property located at 174 Upper Mountain
5 Avenue, Montclair, New Jersey (the "Property"). A copy of the Sale Motion is
6 attached hereto as Exhibit "A". The Receiver seeks such authority on an ex parte
7 basis, because there is insufficient time to have the Sale Motion set on regular notice
8 before the contingency period demanded by the prospective purchaser expires and
9 the cost of serving over 1600 creditors of this ex parte application and the Sale
10 Motion is prohibitive.

11 The prospective purchaser of the Property has insisted that the Receiver obtain
12 Court approval of the sale of the Property within 30 days of final attorney review of
13 the purchase agreement which occurred on April 27, 2009. The last day for the
14 Receiver to obtain court approval of the sale of the Property to the purchaser is,
15 therefore, on May 27, 2009. The Receiver is advised that the earliest court date he
16 can obtain if he files his motion for approval of the sale of the Property on regular
17 notice is June 15, 2009. It is therefore necessary for him to obtain a hearing on
18 shortened notice in order to satisfy the contingency required by the Purchaser.

19 Additionally, the Receiver has filed an Omnibus Motion seeking, among other
20 things, permission to serve notices of motions regarding the sale of real property on a
21 limited service list in light of the large volume of creditors in this case and the costs
22 attendant to serving each and every creditor with substantive pleadings and notices.
23 The Omnibus Motion is set for hearing on May 4, 2009, and has, therefore, not yet
24 been ruled upon by the Court. No objections have been made to the relief requested
25 in the Omnibus Motion, including no objection to the proposed limited notice
26 procedure. Notice of the Omnibus Motion and the proposed limited notice procedure
27 was served on all creditors, who were given an opportunity to object to the proposed
28 procedure. No creditor or party in interest has objected to the limited notice

1 procedure. Therefore, although duplicative of the relief requested in the Omnibus
2 Motion, the Receiver requests approval to serve notice of the sale motion on the
3 Limited Service List as defined herein.

4 5 **II. RELEVANT FACTS.**

6 On March 4, 2009, the Securities and Exchange Commission (“SEC”) filed a
7 Complaint (the “Complaint”) in the SEC Action, alleging two fraud claims for relief
8 against Defendants DLG, AEI, and Bruce Friedman (“Friedman”), as well as Relief
9 Defendant Tina M. Placourakis (“Placourakis”).

10 At the time it filed the Complaint, the SEC also filed in the SEC Action an ex
11 parte application (the “TRO Application”) for a temporary restraining order and for
12 orders: (1) freezing assets, (2) appointing a temporary receiver, (3) prohibiting the
13 destruction of documents, (4) granting expedited discovery, and (5) requiring
14 accountings, and for an order to show cause re preliminary injunction and
15 appointment of a permanent receiver.

16 On March 4, 2009, this Court granted the TRO Application and, among other
17 things, appointed David A. Gill as Temporary Receiver. Mr. Gill with his counsel,
18 accountants and field personnel, took possession of the business premises of the
19 Defendants DLG and AEI (the “Receivership Defendants”) in Sherman Oaks,
20 California.

21 On March 10, 2009, pursuant to a stipulation by Mr. Friedman and no
22 opposition by the other parties, the Court granted the SEC Application and entered
23 the Preliminary Injunction Order, thereby appointing David A. Gill as the Permanent
24 Receiver, among other things.

25 On or about March 31, 2009, the Court signed another Order clarifying that
26 MMHIM, Inc. (MMHIM”) is a wholly owned subsidiary of the Receivership
27 Defendants and that its assets are subject to administration by the Receiver pursuant
28

1 to the Order of March 4, 2009, as amended and supplemented by the Order of March
2 10, 2009_ (the “MMHIM Order”).

3 The Receiver’s duties include, among other things, liquidating property of the
4 Receivership Defendants and their wholly owned subsidiaries, if appropriate, and
5 paying all costs associated with such liquidation.

6 This ex parte application relates to the motion for the sale of an asset titled in
7 the name of MMHIM, which Sale Motion has been filed concurrently herewith.

8
9 **III. THE COURT SHOULD APPROVE SHORTENED TIME FOR**
10 **NOTICE ON THE SALE MOTION**

11 The Receiver seeks to sell property of the receivership estate in order to
12 generate cash for the benefit of creditors. He has located a buyer who has made an
13 all cash offer for the Property, but who has insisted that court approval of the sale
14 occur no later than May 27, 2009. The Receiver has negotiated in good faith with
15 the buyer and attempted to extend the deadline for court approval of the sale, but
16 with no success.

17 The Receiver contacted the Court’s clerk to inquire as to the earliest possible
18 date on which the Sale Motion could be heard by the Court on regular notice and was
19 advised that all matters scheduled for the next regular date of June 1, 2009, were
20 being rescheduled and that June 15, 2009 was the next regularly scheduled court
21 date.

22 The Receiver believes that it is in the best interests of this receivership estate
23 that the Property be sold and that the sale to the buyer be approved in a timely
24 manner so that the buyer does not walk away from the transaction, or be provided the
25 opportunity to do so. The Property appears to have consequential value to the
26 receivership estate, and timely court approval of the sale is necessary to realize such
27 potential value.

28

1 Accordingly, the Receiver requests that he be authorized to have the Sale
2 Motion heard on shortened notice and to use the May 18, 2009 at 10:00 a.m. hearing
3 date and time for the Sale Motion, which has been filed concurrently herewith and
4 served on the Limited Service List identified below.

5
6 **IV. THE COURT SHOULD APPROVE LIMITED NOTICE ON THE**
7 **MOTION**

8 The Receiver has filed an Omnibus Motion seeking, among other things,
9 permission to serve notice of certain matters, including proposed sales of real
10 property, on a limited service list. The Omnibus Motion is set for hearing on May 4,
11 2009, and was served on all creditors and parties in interest in this case. The time for
12 objection to the Omnibus Motion was April 20, 2009. No objections were filed or
13 served in opposition to the Omnibus Motion.

14 The Omnibus Motion requests that service be limited as follows:

15 Notices of all future motions filed in the SEC Action, including motions filed
16 pursuant to Local Rule 66-7, be deemed sufficient if the notices are posted on the
17 website established for the Receivership, viz: www.diversifiedreceivership.com, and
18 served by first class United States Mail or overnight delivery on the following
19 persons and entities (the "Limited Service List"):

20 A. The Security and Exchange Commission, attention John M.
21 McCoy III, 5670 Wilshire Blvd., 11th Floor, Los Angeles, CA 90036;

22 B. Counsel for Defendant Bruce Friedman as follows: Richard
23 Elliott Drooyan, Esq., Munger Tolles & Olson LLP, 355 S. Grand Ave, 35th Floor,
24 Los Angeles, CA 90017;

25 C. The Receiver as follows: David A. Gill, 2029 Century Park East,
26 Third Floor, Los Angeles, California 90067-2904;

1 D. The Receiver's general counsel as follows: George E. Schulman,
2 Esq., Danning, Gill, Diamond & Kollitz, LLP, 2029 Century Park East, Third Floor,
3 Los Angeles, California 90067-2904;

4 E. Relief Defendant Tina M. Placourakis as follows: 8913 E. Calle
5 De La Brisas, Scottsdale, AZ 85255; with a courtesy copy to her Arizona counsel
6 Brian Mueller, 2901 N. Central Ave., Suite 2001, Phoenix Arizona 85012.

7 F. Any party who requests notice thereof by filing with this Court
8 and serving upon the Receiver, through his counsel, a request for notice. The
9 Receiver shall place on his website a notice providing to persons who review it
10 instructions as to the manner of requesting such notice; and

11 G. Any party against whom relief is sought, or who has direct
12 interest in the subject of the filed motion, such that the party would have been
13 entitled to receive notice under Federal Rule of Bankruptcy Procedure 9014, or to
14 such party's counsel, if the party has appeared through counsel.

15 The Limited Service List will be served with notice only of the operative
16 pleadings but the notice shall provide that the operative pleadings may be viewed and
17 printed from the Receiver's website or the Court's Pacer site. The notice will also
18 provide that any interested party may request paper or electronic copies of the entire
19 service package by contacting the Receiver in writing, with which request the
20 Receiver will comply by first class mail.

21 There are a minimum of 1,650 known creditors in this case, and it is a
22 complex case with numerous assets which will likely necessitate the filing of several
23 interim reports, interim fee applications, and motions for approval of sales or other
24 disposition of assets. The Receiver sent out an initial notice of his appointment to all
25 creditors and parties in interest. The Receiver believes that mailing out notice of
26 every motion is not cost-effective and that it may quickly deplete resources of the
27 estate if he is required to physically serve each and every notice and pleading on all
28 creditors in this case.

1 Regarding the sale of the Property, the Receiver identified in his Omnibus
2 Motion set for hearing on May 4, 2009, that he was listing the Property for sale and
3 that he was seeking ratification of a broker to do so. No objection has been received
4 to the Omnibus Motion, or specifically to the sale of the Property or the proposed
5 procedure for service of a motion to sell property of the receivership estate.

6 This Court has the authority to modify the notice provisions of Local Rule 66-
7 7. The Rule provides that the provisions of Local Rule 66-1 apply to notice of
8 Rule 66-7 motions. Local Rule 6-1 provides for the filing and service of written
9 notices of motion “unless otherwise provided by rule or ordered by the Court.” This
10 Court may make appropriate administrative orders as a court of equity, in modifying
11 notice and service procedures. Local Rule 66-8 provides for the administration of
12 receivership estates “as nearly as possible in accordance with the practice in the
13 administration of estates in bankruptcy.” Orders limiting notice are routinely granted
14 in bankruptcy cases to promote the economical administration of bankruptcy estates.
15 See, In re First Alliance Mortgage Co., 269 B.R. 428, 442 (C.D.Cal. 2001).

16
17
18
19
20
21
22
23
24
25
26
27
28


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

V. CONCLUSION

For the foregoing reasons, the Receiver prays for an order: (1) authorizing him to have the Sale Motion heard on shortened time and setting the hearing for May 18, 2009 at 10:00 a.m.; (2) authorizing the Receiver to serve notice of the Sale Motion on the Limited Service List as set forth herein; and (3) granting such other and further relief as may be just and proper.

Dated: April 2, 2009

DANNING, GILL, DIAMOND & KOLLITZ, LLP

By: 
George E. Schulman
Kathy Bazoian Phelps
Attorneys for David A. Gill,
Permanent Receiver

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF DAVID A. GILL

I, David A. Gill, declare as follows:

1. I am the Permanent Receiver appointed by this Court for Diversified Lending Group, Inc. (“DLG”), and Applied Equities, Inc. (“AEI”) (collectively the “Receivership Defendants”), pursuant to the Order of Preliminary Injunction and Orders: (1) Continuing Asset Freeze, (2) Appointing a Permanent Receiver, (3) Prohibiting the Destruction of Documents, (4) Granting Expedited Discovery, and (5) Requiring Accountings (the “Preliminary Injunction Order”), signed and entered by this Court on March 10, 2009, in Securities and Exchange Commission v. Diversified Lending Group, Inc., et al., Case No. CV 09—1533-R-JTL (the “SEC Action”), pending in the United States District Court, Central District of California.
2. On March 4, 2009, the Securities and Exchange Commission (“SEC”) filed a Complaint (the “Complaint”) in the SEC Action, alleging two fraud claims for relief against Defendants DLG, AEI, and Bruce Friedman (“Friedman”), as well as Relief Defendant Tina M. Placourakis (“Placourakis”).
3. At the time it filed the Complaint, the SEC also filed in the SEC Action an ex parte application (the “TRO Application”) for a temporary restraining order and for orders: (1) freezing assets, (2) appointing a temporary receiver, (3) prohibiting the destruction of documents, (4) granting expedited discovery, and (5) requiring accountings, and for an order to show cause re preliminary injunction and appointment of a permanent receiver.
4. On March 4, 2009, this Court granted the TRO Application and, among other things, appointed me as Temporary Receiver. I, along with my counsel, accountants and field personnel, took possession of the business premises of the Defendants DLG and AEI (the “Receivership Defendants”) in Sherman Oaks, California.
5. On March 10, 2009, pursuant to a stipulation by Mr. Friedman and no opposition by the other parties, the Court granted the SEC Application and entered

1 the Preliminary Injunction Order, thereby appointing me as the Permanent Receiver,
2 among other things.

3 6. On or about March 31, 2009, the Court signed another Order clarifying that
4 MMHIM, Inc. (MMHIM”) is a wholly owned subsidiary of the Receivership
5 Defendants and that its assets are subject to administration by the Receiver pursuant
6 to the Order of March 4, 2009, as amended and supplemented by the Order of March
7 10, 2009_ (the “MMHIM Order”).

8 7. My duties include, among other things, liquidating property of the
9 Receivership Defendants and their wholly owned subsidiaries, if appropriate, and
10 paying all costs associated with such liquidation.

11 8. This ex parte application relates to the motion for the sale of an asset titled
12 in the name of MMHIM, specifically 174 Upper Mountain Avenue, Montclair, New
13 Jersey (the “Sale Motion”). The Sale Motion has been filed concurrently herewith,
14 and a true and correct copy of the Sale Motion is attached hereto as Exhibit “A”.

15 9. I to sell property of the receivership estate in order to generate cash for the
16 benefit of creditors. I have located a buyer who has made an all cash offer for the
17 Property, but who has insisted that court approval of the sale occur no later than May
18 27, 2009. I have negotiated in good faith with the buyer and attempted to extend the
19 deadline for court approval of the sale, but with no success.

20 10. I, through my counsel, contacted the Court’s clerk to inquire as to the
21 earliest possible date on which the Sale Motion could be heard by the Court on
22 regular notice and was advised that all matters scheduled for the next regular date of
23 June 1, 2009, were being rescheduled and that June 15, 2009 was the next regularly
24 scheduled court date.

25 11. I believe that it is in the best interests of this receivership estate that the
26 Property be sold and that the sale to the buyer be approved in a timely manner so that
27 the buyer does not walk away from the transaction, or be provided the opportunity to
28

1 do so. The Property appears to have consequential value to the receivership estate,
2 and timely court approval of the sale is necessary to realize such potential value.

3 12. Accordingly, I request that I be authorized to have the Sale Motion heard
4 on shortened notice and to use the May 18, 2009 at 10:00 a.m. hearing date and time
5 for the Sale Motion, which has been filed concurrently herewith and served on the
6 Limited Service List identified below.

7 13. I have filed an Omnibus Motion seeking, among other things, permission
8 to serve notice of certain matters, including proposed sales of real property, on a
9 limited service list. The Omnibus Motion is set for hearing on May 4, 2009, and was
10 served on all creditors and parties in interest in this case. The time for objection to
11 the Omnibus Motion was April 20, 2009. No objections were filed or served in
12 opposition to the Omnibus Motion.

13 14. The Omnibus Motion requests that service be limited as follows:

14 -Notices of all future motions filed in the SEC Action, including motions filed
15 pursuant to Local Rule 66-7, be deemed sufficient if the notices are posted on the
16 website established for the Receivership, viz: www.diversifiedreceivership.com, and
17 served by first class United States Mail or overnight delivery on the following
18 persons and entities (the "Limited Service List"):

19 A. The Security and Exchange Commission, attention John M.
20 McCoy III, 5670 Wilshire Blvd., 11th Floor, Los Angeles, CA 90036;

21 B. Counsel for Defendant Bruce Friedman as follows: Richard
22 Elliott Drooyan, Esq., Munger Tolles & Olson LLP, 355 S. Grand Ave, 35th Floor,
23 Los Angeles, CA 90017;

24 C. The Receiver as follows: David A. Gill, 2029 Century Park East,
25 Third Floor, Los Angeles, California 90067-2904;

26 D. The Receiver's general counsel as follows: George E. Schulman,
27 Esq., Danning, Gill, Diamond & Kollitz, LLP, 2029 Century Park East, Third Floor,
28 Los Angeles, California 90067-2904;

1 E. Relief Defendant Tina M. Placourakis as follows: 8913 E. Calle
2 De La Brisas, Scottsdale, AZ 85255; with a courtesy copy to her Arizona counsel
3 Brian Mueller, 2901 N. Central Ave., Suite 2001, Phoenix Arizona 85012.

4 F. Any party who requests notice thereof by filing with this Court
5 and serving upon the Receiver, through his counsel, a request for notice. The
6 Receiver shall place on his website a notice providing to persons who review it
7 instructions as to the manner of requesting such notice; and

8 G. Any party against whom relief is sought, or who has direct
9 interest in the subject of the filed motion, such that the party would have been
10 entitled to receive notice under Federal Rule of Bankruptcy Procedure 9014, or to
11 such party's counsel, if the party has appeared through counsel.

12 -The Limited Service List will be served with notice only of the operative
13 pleadings but the notice shall provide that the operative pleadings may be viewed and
14 printed from the Receiver's website or the Court's Pacer site. The notice will also
15 provide that any interested party may request paper or electronic copies of the entire
16 service package by contacting the Receiver in writing, with which request the
17 Receiver will comply by first class mail.

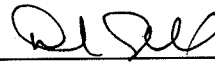
18 15. There are a minimum of 1,650 known creditors in this case, and it is a
19 complex case with numerous assets which will likely necessitate the filing of several
20 interim reports, interim fee applications, and motions for approval of sales or other
21 disposition of assets. I sent out an initial notice of his appointment to all creditors
22 and parties in interest. I believe that mailing out notice of every motion is not cost-
23 effective and that it may quickly deplete resources of the estate if I am required to
24 physically serve each and every notice and pleading on all creditors in this case.

25 16. Regarding the sale of the Property, I identified in my Omnibus Motion set
26 for hearing on May 4, 2009, that I was listing the Property for sale and that I was
27 seeking ratification of employment of a broker to do so. No objection has been
28

1 received to the Omnibus Motion, or specifically to the sale of the Property or the
2 proposed procedure for service of a motion to sell property of the receivership estate.
3

4 I declare under penalty of perjury, under the laws of the United States of
5 America, that the foregoing is true and correct.
6

7 Executed at Los Angeles, CA on April 27, 2009.
8

9 

10 _____
11 DAVID A. GILL
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 I called counsel and provided them with telephonic notice of the Receiver's
2 Application. I personally spoke with Mr. Drooyan, Mr. Mueller and Ms.
3 Placourakis, who stated that they would not oppose the Application. I left a detailed
4 voice message for Melissa Grant at her office, giving notice of the Application. As
5 of the signing of this declaration, neither Ms. Grant has contacted me to express
6 opposition to the Application, or to the fact that the Receiver filed his request on an
7 ex parte basis.

8
9 I declare under penalty of perjury under the laws of the United States of
10 America that the foregoing is true and correct.

11 Executed on April 27, 2009, at Los Angeles, California.

12
13 
14 _____
15 KATHY BAZOIAN PHELPS
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "A"

1 GEORGE E. SCHULMAN (State Bar No. 064572)
2 *gschulman@dgdk.com*
3 KATHY BAZOIAN PHELPS (State Bar No. 155564)
4 *kphelps@dgdk.com*
5 UZZI O. RAANAN (State Bar No. 162747)
6 *uranaan@dgdk.com*
7 DANNING, GILL, DIAMOND & KOLLITZ, LLP
8 2029 Century Park East, Third Floor
9 Los Angeles, California 90067-2904
10 Telephone: (310) 277-0077
11 Facsimile: (310) 277-5735

12 Attorneys for David A. Gill, Receiver

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 SECURITIES AND EXCHANGE
16 COMMISSION,

17 Plaintiff,

18 vs.

19 DIVERSIFIED LENDING GROUP,
20 INC.; APPLIED EQUITIES, INC.; AND
21 BRUCE FRIEDMAN,

22 Defendants.

23 and

24 TINA M. PLACOURAKIS,

25 Relief Defendant.

Case No. CV 09-01533-R-JTLx

**MOTION OF RECEIVER FOR
APPROVAL OF:**

**(1) SALE OF 174 UPPER
MOUNTAIN AVENUE,
MONTCLAIR NEW
JERSEY; AND**

**(2) PAYMENT OF BROKERS'
COMMISSION;**

**MEMORANDUM OF POINTS
AND AUTHORITIES; AND
DECLARATION OF DAVID A.
GILL IN SUPPORT THEREOF**

Date: [Hearing to be Scheduled]

Time:

Place: Courtroom 8
312 North Spring Street
Los Angeles, CA

26 David A. Gill, the duly appointed Permanent Receiver for Diversified Lending
27 Group ("DLG") and Applied Equities, Inc. ("AEI") hereby moves for approval of the
28 sale of the real property located at 174 Upper Mountain Road, Montclair, New Jersey
pursuant to the terms of the sale agreement set forth herein and payment of
associated brokers' commissions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

David A. Gill is the duly appointed Permanent Receiver for DLG and AEI, and their subsidiaries and affiliates, including those specifically named in the amended preliminary injunction.

II. RELEVANT FACTS

A. Procedural History

On March 4, 2009, the Securities and Exchange Commission (“SEC”) filed a Complaint (the “Complaint”) in the SEC Action, alleging two fraud claims for relief against Defendants DLG, AEI, and Bruce Friedman (“Friedman”), as well as Relief Defendant Tina M. Placourakis (“Placourakis”).

At the time it filed the Complaint, the SEC also filed in the SEC Action an ex parte application (the “TRO Application”) for a temporary restraining order and for orders: (1) freezing assets, (2) appointing a temporary receiver, (3) prohibiting the destruction of documents, (4) granting expedited discovery, and (5) requiring accountings, and for an order to show cause re preliminary injunction and appointment of a permanent receiver.

On March 4, 2009, this Court granted the TRO Application and, among other things, appointed David A. Gill as Temporary Receiver. Mr. Gill with his counsel, accountants and field personnel, took possession of the business premises of the Defendants DLG and AEI (the “Receivership Defendants”) in Sherman Oaks, California.

On March 10, 2009, pursuant to a stipulation by Mr. Friedman and no opposition by the other parties, the Court granted the SEC Application and entered the Preliminary Injunction Order, thereby appointing David A. Gill as the Permanent Receiver, among other things.

1 On or about March 31, 2009, the Court signed another Order clarifying that
2 MMHIM, Inc. (MMHIM”) is a wholly owned subsidiary of the Receivership
3 Defendants and that its assets are subject to administration by the Receiver pursuant
4 to the Order of March 4, 2009, as amended and supplemented by the Order of March
5 10, 2009 (the “MMHIM Order”). A copy of the MMHIM Order is attached to the
6 Declaration of David A. Gill as Exhibit “1”. This motion relates to one such asset.

7 The Receiver’s duties include, among other things, liquidating property of the
8 Receivership Defendants and their wholly owned subsidiaries, if appropriate, and
9 paying all costs associated with such liquidation.

10 B. The Property and Encumbrances of Record

11 MMHIM is vested of record with title to a single family residence located at
12 174 Upper Mountain Avenue, Montclair, New Jersey (the “Property”). MMHIM is a
13 wholly owned subsidiary of DLG and included in the assets to be administered
14 herein pursuant to the MMHIM Order. Although the Receiver believes that the
15 authority for him to sell the assets of MMHIM under the MMHIM Order is clear, in
16 an excess of caution, the Receiver obtained from MMHIM, through Bruce Friedman,
17 principal, two executed forms of grant deeds to facilitate transfer of title of the
18 Property to the Purchaser. The Receiver is consulting with his New Jersey counsel
19 and the title company as to whether recordation of a deed is necessary or appropriate
20 under the circumstances, and they are evaluating whether it may be appropriate to
21 transfer title directly from MMHIM to the Purchaser.

22 By this Motion, the Receiver is requesting authority to sell the Property to
23 Purchaser and to consummate the sale either by selling the Property directly from
24 MMHIM to the Purchaser pursuant to the MMHIM Order authorizing the sale of
25 MMHIM assets, or by recording the deed transferring title to the Receiver and the
26 transferring title to the Purchaser, depending on the requirements of the New Jersey
27 title company and the tax consequences of transferring title in one format or the
28 other.

1 Prior to the Receiver's appointment, commencing on or about February 23,
2 2009, MMHIM had listed the Property at \$2,749,000 with Re/Max Village Square, a
3 licensed real estate broker, subject to a commission of 5%. The listing included
4 furniture alleged by Bruce Friedman to have cost Diversified or MMHIM \$350,000.
5 It appears that the Property has been actively marketed since that time.

6 Upon the Receiver's appointment, he contacted the broker at Re/Max and
7 renegotiated the listing agreement, resulting in a lower commission of 4.5%, to be
8 shared by the Listing Broker and the Purchaser's broker. The listing price remains at
9 \$2,749,000.00. The Receiver has requested ratification of his employment of
10 Re/Max Village Square ("Broker") in connection with his Omnibus Motion
11 scheduled for hearing on May 4, 2009. The listing agreement is attached to the Gill
12 Declaration as Exhibit "2". No objection was made timely or at all to the Receiver's
13 request therein to retain said Broker.

14 The Receiver caused the Property to be appraised, and a copy of said appraisal
15 report is attached to the Gill Declaration as Exhibit "3". The appraisal shows a value
16 of \$2,550,000.

17 The Receiver has received a preliminary title report dated as of March 20,
18 2009. A copy of the preliminary title report is attached as Exhibit "4" to the
19 Declaration of David A. Gill. According to the preliminary title report and other
20 documents available to the Receiver, the liens against and alleged interests in the
21 Property consist of the following:

22 -a mortgage recorded in Book 12175 page 7166 on January 27, 2009 and
23 rerecorded on February 17, 2009 in Book 12178 page 6656 to Emigrant
24 Mortgage Company, Inc. dated January 20, 2009 to secure an indebtedness in
25 the original principal sum of \$750,000;

26 The Receiver has requested but not yet obtained a beneficiary statement from
27 Emigrant Mortgage Company.

28

1 C. Terms of Proposed Sale

2 In response to the Broker's marketing efforts, on or about April 2, 2009, the
3 Receiver received an offer from Naureen Udofia and Nkere Udofia (collectively the
4 "Purchasers") to purchase the Property. The initial offer was for \$2,600,000 and
5 included all of the furniture. The Receiver countered the offer at \$2.9 million,
6 including the furniture. After several rounds of arms-length negotiation, the
7 Receiver ultimately received an offer of \$2,550,000 cash including limited personal
8 property such as gym equipment, which personal property has an estimated value of
9 \$45,000.

10 The Receiver negotiated with the Purchasers and arrived at an agreement
11 subject to court approval, memorialized in a purchase and sale agreement, whereby
12 the Buyers have agreed to purchase the Property for \$2,550,000. A copy of the
13 purchase and sale agreement is attached as Exhibit "5" to the Declaration of David
14 A. Gill.

15 The proposed sale of the Property is on an "as is" and "where is" basis,
16 without any warranties or recourse whatsoever, except that title insurance is to be
17 provided.

18

19 D. Good Faith Purchaser

20 The Agreement was reached in response to the Brokers' marketing efforts, and
21 via arms-length negotiations between the parties. To the best of the Receiver's
22 knowledge, the Purchaser has no relationship to DLG, AEI, MMHIM or Bruce
23 Friedman. Purchaser has made an all cash offer to purchase the Property at its
24 appraised value. The Receiver requests a finding that the Purchaser is a good faith
25 purchaser.

26

27 E. Proposed Treatment of Lien and Payment of Other Items Through
28 Escrow

1 The Receiver believes that the underlying debt to Emigrant was an arms-
2 length "hard money" transaction. He does not know what charges will be claimed by
3 Emigrant in addition to payment of principal and interest and therefore proposes to
4 pay all principal and accrued interest on the mortgage claim of Emigrant directly
5 through escrow, along with all undisputed tax liens against the Property and all other
6 customary costs and charges and to reserve in escrow funds to cover any disputes as
7 to charges.

8
9 F. Payment of Commissions to Real Estate Brokers

10 The sale also contemplates the payment of real estate brokers' commissions
11 from escrow in connection with the proposed sale. The Receiver has requested
12 authority to employ Broker as part of his Omnibus Motion set for hearing on May 4,
13 2009, and no objections were made thereto, but due to timing issues, this Motion also
14 perhaps redundantly seeks approval to pay from sales proceeds out of escrow the
15 listing Broker and Buyer's Broker their portion set forth in the listing agreement.
16 The listing agreement approved by the Court provides that an aggregate commission
17 of 4.5% of the gross sales price will be paid to the Brokers from escrow in
18 connection with the sale without further order of the Court.

19
20 G. Limited Notice of Motion is Appropriate

21 Pursuant to the Receiver's Omnibus Motion set for hearing on May 4, 2009,
22 the Receiver has requested authority to serve notice of motions to sell real property
23 on a limited service list. As of the time of the filing of this Motion, which is after the
24 last date fixed for objecting to the Omnibus Motion, no order has yet been entered on
25 the Omnibus Motion and, therefore, no order limiting notice has yet been entered by
26 the Court. However, for the reasons set forth in the Omnibus Motion, the Receiver
27 has requested authority to serve notice of this Motion by mail to the Limited Service
28

1 List and by posting of the notice and the motion on the Receiver's website at
2 www.diversifiedreceivership.com.

3 In addition to service of the notice of this Motion on the limited notice list and
4 posting on his website, the Receiver will post notice of the Motion at the clerk's
5 office for the Bankruptcy Court in the Central District of California and in the New
6 Jersey Law Journal, which is the customary place to advertise such sales under the
7 practice in the Bankruptcy Court for the District of New Jersey.

8

9 H. Procedures for Sale of Real Property

10 In his Omnibus Motion, the Receiver has previously sought authority to sell an
11 interest in real property owned by the Receivership Defendants or other entities
12 wholly owned by the Receivership Defendants as follows:

13 (1) Licensed brokers may be retained without further court order, but at a
14 commission rate no higher than that commonly charged for similar
15 property in the community where the property is located, but subject to
16 confirmation by the Court by a separate order or in connection with
17 confirmation of a property sale.

18 (2) All property sales shall be subject to Court approval and shall be noticed
19 for approval pursuant to the procedures governing the filing of a motion,
20 and any objections thereto shall be governed by the Bankruptcy Rules
21 and Federal Rules of Bankruptcy Procedure unless inconsistent with the
22 provisions of the Order approving this Motion.

23 Accordingly, the Receiver requests that this Motion be governed by said
24 procedure, whereby the Receiver has filed a motion seeking Court approval of the
25 sale of the real property and of payment of the commissions to his broker.

26

27

28

1 III.

2 ARGUMENT

3 A. THE SALE IS IN THE BEST INTERESTS OF THE ESTATE AND ITS
4 CREDITORS AND SHOULD BE APPROVED

5 The Local Rules for the District Court for the Central District of California
6 provide that:

7 Except as otherwise ordered by the Court, a receiver shall administer the estate
8 as nearly as possible in accordance with the practice in the administration of
9 estates in bankruptcy.

10 See Local Rule 66-8.

11 Under the Bankruptcy Code, courts are authorized to permit a trustee to
12 conduct a sale of estate property outside of the ordinary course of business if such
13 sale is in the best interests of the estate and its creditors. See, e.g., In re The
14 Huntington, Ltd., 654 F.2d 578 (9th Cir. 1981); In re Equity Funding Corp., 492 F.2d
15 793 (9th Cir. 1974); In re The Canyon Partnership, 55 B.R. 520 (Bankr. S.D. Cal.
16 1985).

17 A trustee's duties in liquidating the assets of the estate require that a trustee
18 sell estate property where to do so will benefit the estate and its creditors. The
19 Receiver believes that the proposed conduct of sale of the Property is the best
20 method by which to maximize the value of the estate's interest in the Property. The
21 Property has been listed at \$2,749,000 for several months and has been actively
22 marketed. The appraised value of the Property is \$2,550,000. The Receiver has
23 received an offer of \$2,550,000, for the Property and for a small amount of personal
24 property worth no more than \$45,000. The Receiver negotiated, through the
25 Brokers, with the Purchasers and, as a result of such arms-length negotiations, the
26 Receiver has agreed to sell the Property to the Purchasers for \$2,550,000, which the
27 Receiver believes is a reasonable price for the Property.
28

1 The Receiver intends to pay the one lien against the Property to Emigrant
2 directly through escrow, along with any outstanding undisputed real property taxes
3 and other customary closing charges.

4 The Receiver also requests authority to consummate the sale of the Property to
5 purchaser either by permitting the transfer of the Property by deed executed by the
6 Receiver and/or officers of MMHIM directly from MMHIM to Purchasers pursuant
7 to the terms of the MMHIM Order, or by recording a conveyance of the Property
8 from MMHIM to the Receiver and then a subsequent conveyance from the Receiver
9 to the Purchasers.

10
11 **IV.**

12 **CONCLUSION**

13 Based upon the foregoing, the Receiver respectfully requests that the Court:

- 14 1. confirm the proposed sale of the Property to the Purchasers on the
15 indicated terms;
- 16 2. authorize the Receiver to consummate the sale of the Property to
17 Purchasers either by permitting the transfer of the Property directly from MMHIM to
18 Purchasers pursuant to the terms of the MMHIM Order, or by recording a
19 conveyance of the Property from MMHIM to the Receiver and then a subsequent
20 conveyance from the Receiver to the Purchasers.
- 21 3. authorize the Receiver to pay all undisputed portions of the Emigrant
22 lien directly through escrow, along with all undisputed portions of any real property
23 tax liens, and all other customary closing costs and customary charges;
- 24 4. authorize the Receiver to pay the real estate brokers' commissions in an
25 amount equal to 4.5% of the purchase price confirmed by the Court;
- 26 5. make a finding that the Purchasers or their assignees are good faith
27 purchasers of the Property;

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 6. approve the form and manner of notice provided by the Receiver of the sale; and
- 7. provide such other and further relief as the Court deems just and proper.

Dated: April 27, 2009

DANNING, GILL, DIAMOND & KOLLITZ, LLP

By: 

George E. Schulman
Kathy Bazoian Phelps
Attorneys for David A. Gill,
Permanent Receiver

DECLARATION OF DAVID A. GILL

I, David A. Gill, declare as follows:

1. I am the Permanent Receiver appointed by this Court for Diversified Lending Group, Inc. (“DLG”), and Applied Equities, Inc. (“AEI”) (collectively the “Receivership Defendants”), pursuant to the Order of Preliminary Injunction and Orders: (1) Continuing Asset Freeze, (2) Appointing a Permanent Receiver, (3) Prohibiting the Destruction of Documents, (4) Granting Expedited Discovery, and (5) Requiring Accountings (the “Preliminary Injunction Order”), signed and entered by this Court on March 10, 2009, in Securities and Exchange Commission v. Diversified Lending Group, Inc., et al., Case No. CV 09—1533-R-JTL (the “SEC Action”), pending in the United States District Court, Central District of California.

2. I have personal knowledge of the facts in this declaration and, if called as a witness, I could competently testify to these facts.

3. On March 4, 2009, the Securities and Exchange Commission (“SEC”) filed a Complaint (the “Complaint”) in the SEC Action, alleging two fraud claims for relief against Defendants DLG, AEI, and Bruce Friedman (“Friedman”), as well as Relief Defendant Tina M. Placourakis (“Placourakis”).

4. At the time it filed the Complaint, the SEC also filed in the SEC Action an ex parte application (the “TRO Application”) for a temporary restraining order and for orders: (1) freezing assets, (2) appointing a temporary receiver, (3) prohibiting the destruction of documents, (4) granting expedited discovery, and (5) requiring accountings, and for an order to show cause re preliminary injunction and appointment of a permanent receiver.

5. On March 4, 2009, this Court granted the TRO Application and, among other things, appointed me as Temporary Receiver. I, along with my counsel, accountants and field personnel, took possession of the business premises of the

1 Defendants DLG and AEI (the "Receivership Defendants") in Sherman Oaks,
2 California.

3 6. On March 10, 2009, pursuant to a stipulation by Mr. Friedman and no
4 opposition by the other parties, the Court granted the SEC Application and entered
5 the Preliminary Injunction Order, thereby appointing me as the Permanent Receiver,
6 among other things.

7 7. On or about March 31, 2009, the Court signed another Order clarifying
8 that MMHIM, Inc. (MMHIM") is a wholly owned subsidiary of the Receivership
9 Defendants and that its assets are subject to administration by the Receiver pursuant
10 to the Order of March 4, 2009, as amended and supplemented by the Order of March
11 10, 2009 (the "MMHIM Order"). A copy of the MMHIM Order is attached hereto
12 as Exhibit "1". This motion relates to one such asset.

13 8. My duties include, among other things, liquidating property of the
14 Receivership Defendants and their wholly owned subsidiaries, if appropriate, and
15 paying all costs associated with such liquidation.

16 9. MMHIM is vested of record with title to a single family residence located
17 at 174 Upper Mountain Rd., Montclair, New Jersey (the "Property"). MMHIM is a
18 wholly owned subsidiary of DLG and included in the assets to be administered
19 herein pursuant to the MMHIM Order. Although I believe that the authority for me
20 to sell the assets of MMHIM under the MMHIM Order is clear, in an excess of
21 caution, I obtained from MMHIM, through Bruce Friedman, the principal of
22 MMHIM, two executed forms of grant deeds to facilitate transfer of title of the
23 Property to the Purchaser. I am consulting with my New Jersey counsel and the title
24 company as to whether recordation of one of those deeds is necessary or appropriate
25 under the circumstances, and they are evaluating whether it may be appropriate for
26 me to transfer title directly from MMHIM to the Purchaser.

27 10. By this Motion, I am requesting authority to sell the Property to
28 Purchaser and to consummate the sale either by selling the Property directly from

1 MMHIM to the Purchaser pursuant to the MMHIM Order authorizing the sale of
2 MMHIM assets, or by recording the deed transferring title to me and the transferring
3 title to the Purchaser, depending on the requirements of the New Jersey title
4 company and the fees and tax consequences of transferring title in one format or the
5 other.

6 11. Prior to my appointment, commencing on or about February 23, 2009,
7 MMHIM had listed the Property at \$2,749,000 with Re/Max Village Square, a
8 licensed real estate broker, subject to a commission of 5%. The listing included
9 furniture alleged by Bruce Friedman to have cost Diversified or MMHIM \$350,000.
10 It appears that the Property has been actively marketed since that time.

11 12. Upon my appointment, I contacted the broker at Re/Max and renegotiated
12 the listing agreement, resulting in a lower commission of 4.5%, to be shared by the
13 Listing Broker and the Purchaser's broker. The listing price remains at
14 \$2,749,000.00. I have requested ratification of my employment of Re/Max Village
15 Square ("Broker") in connection with my Omnibus Motion scheduled for hearing on
16 May 4, 2009. The listing agreement is attached hereto as Exhibit "2". No objection
17 was made timely or at all to my request therein to retain said Broker.

18 13. I caused the Property to be appraised, and a copy of said appraisal report
19 is attached hereto as Exhibit "3". The appraisal shows a value of \$2,550,000.

20 14. I have received a preliminary title report dated as of March 20, 2009. A
21 copy of the preliminary title report is attached hereto as Exhibit "4". According to
22 the preliminary title report and other documents available to me, the liens against and
23 alleged interests in the Property consist of the following:

24 -a mortgage recorded in Book 12175 page 7166 on January 27, 2009 and
25 rerecorded on February 17, 2009 in Book 12178 page 6656 to Emigrant
26 Mortgage Company, Inc. dated January 20, 2009 to secure an indebtedness in
27 the original principal sum of \$750,000;

28

1 15. I have requested but not yet obtained a beneficiary statement from
2 Emigrant Mortgage Company.

3 16. In response to the Brokers' marketing efforts, on or about April 2, 2009, I
4 received an offer from Naureen Udofia and Nkere Udofia (collectively the
5 "Purchasers") to purchase the Property. The initial offer was for \$2,600,000 and
6 included all of the furniture. I countered the offer at \$2.9 million, including the
7 furniture. After several rounds of arms-length negotiation, I ultimately received an
8 offer of \$2,550,000 cash including limited personal property such as gym equipment,
9 which personal property has an estimated value of \$45,000.

10 17. I negotiated with the Purchasers and arrived at an agreement subject to
11 court approval, memorialized in a purchase and sale agreement, whereby the
12 Purchasers have agreed to purchase the Property for \$2,550,000. A copy of the
13 purchase and sale agreement is attached hereto as Exhibit "5".

14 18. The proposed sale of the Property is on an "as is" and "where is" basis,
15 without any warranties or recourse whatsoever, except that title insurance is to be
16 provided.

17 19. The Agreement was reached in response to the Brokers' marketing efforts,
18 and via arms-length negotiations between the parties. To the best of my knowledge,
19 the Purchaser has no relationship to DLG, AEI, MMHIM or Bruce Friedman.
20 Purchaser has made an all cash offer to purchase the Property at its appraised value.
21 I believe that Purchaser is a good faith purchaser.

22 20. I believe that the underlying debt to Emigrant was an arms-length "hard
23 money" transaction. I do not know what charges will be claimed by Emigrant in
24 addition to payment of principal and contractual interest and therefore propose to pay
25 all undisputed portions of the mortgage claim of Emigrant directly through escrow,
26 along with all undisputed tax liens against the Property along with all other
27 customary costs and charges, retaining in suitable fashion funds to cover any
28 disputed portions of the claim.

1 21. The sale also contemplates the payment of real estate brokers'
2 commissions from escrow in connection with the proposed sale. I have requested
3 authority to employ Broker as part of my Omnibus Motion set for hearing on May 4,
4 2009, and no objections were made thereto, but due to timing issues, this Motion also
5 perhaps redundantly seeks approval to pay Broker and Purchaser's broker their
6 shares of the commission set forth in the listing agreement. The listing agreement
7 approved by the Court provides that an aggregate commission of 4.5% of the gross
8 sales price will be paid to the Brokers from escrow in connection with the sale
9 without further order of the Court.

10 22. Pursuant to my Omnibus Motion set for hearing on May 4, 2009, I have
11 requested authority to serve notice of motions to sell real property on a limited
12 service list. As of the time of the filing of this Motion, which is after the last date
13 fixed for objecting to the Omnibus Motion, no order has yet been entered on the
14 Omnibus Motion and, therefore, no order limiting notice has yet been entered by the
15 Court. However, for the reasons set forth in the Omnibus Motion, I request authority
16 to serve notice of this Motion by mail to the Limited Service List and by posting of
17 the notice and the motion on my website at www.diversifiedreceivership.com.

18 23. In addition to service of the notice of this Motion on the limited notice list
19 and posting on my website, I will notice of the Motion at the clerk's office for the
20 Bankruptcy Court in the Central District of California and in the New Jersey Law
21 Journal, which I have been advised is the customary place to advertise such sales
22 under the practice in the Bankruptcy Court for the District of New Jersey.

23 24. In my Omnibus Motion, I have previously sought authority to sell an
24 interest in real property owned by the Receivership Defendants or other entities
25 wholly owned by the Receivership Defendants as follows:

- 26 a. Licensed brokers may be retained without further court order, but
27 at a commission rate no higher than that commonly charged for
28 similar property in the community where the property is located,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

but subject to confirmation by the Court by a separate order or in connection with confirmation of a property sale.

b. All property sales shall be subject to Court approval and shall be noticed for approval pursuant to the procedures governing the filing of a motion, and any objections thereto shall be governed by the Bankruptcy Rules and Federal Rules of Bankruptcy Procedure unless inconsistent with the provisions of the Order approving this Motion.

25. A copy of the proposed Order on the Sale Motion is attached hereto as Exhibit "6".

I declare under penalty of perjury that the foregoing is true and correct.
Executed at Los Angeles, California, on April 27, 2009.



DAVID A. GILL

EXHIBIT 1

1 JOHN M. McCOY III, Cal. Bar No. 166244
 Email: mccoymj@sec.gov
 2 GREGORY C. GLYNN, Cal. Bar No. 39999
 Email: glynn@g@sec.gov
 3 FINOLA H. MANVELIAN, Cal. Bar No. 180681
 Email: manvelianf@sec.gov
 4 MARSHALL S. SPRUNG, Cal. Bar No. 188253
 Email: sprungm@sec.gov
 5 CATHERINE W. BRILLIANT, Cal. Bar No. 229992
 Email: brilliantc@sec.gov
 6 MELISSA GRANT, Cal. Bar No. 205633
 Email: grantm@sec.gov

7 Attorneys for Plaintiff
 8 Securities and Exchange Commission
 Rosalind R. Tyson, Regional Director
 9 Andrew G. Petillon, Associate Regional Director
 5670 Wilshire Boulevard, 11th Floor
 10 Los Angeles, California 90036
 Telephone: (323) 965-3998
 11 Facsimile: (323) 965-3908

12
 13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

15 **SECURITIES AND EXCHANGE**
 16 **COMMISSION,**

17 Plaintiff,

18 vs.

19 **DIVERSIFIED LENDING GROUP, INC.;**
APPLIED EQUITIES, INC.; and **BRUCE**
 20 **FRIEDMAN,**

21 Defendants,

22 and

23 **TINA M. PLACOURAKIS,**

24 Relief Defendant.

Case No. CV 09-01533-R-(JTLx)

**AMENDED ORDER OF
 PRELIMINARY INJUNCTION AND
 ORDERS: (1) CONTINUING ASSET
 FREEZE, (2) APPOINTING A
 PERMANENT RECEIVER,
 (3) PROHIBITING THE
 DESTRUCTION OF DOCUMENTS,
 (4) GRANTING EXPEDITED
 DISCOVERY, AND
 (5) REQUIRING ACCOUNTINGS**

1 This matter came to be heard at 10:00 a.m. on Tuesday, March 10, 2009,
2 pursuant to an Order to Show Cause issued by this Court on March 4, 2009, and
3 upon the prior Application of Plaintiff Securities and Exchange Commission
4 (“Commission”) for a Temporary Restraining Order And Orders: (1) Freezing
5 Assets, (2) Appointing A Temporary Receiver, (3) Prohibiting The Destruction Of
6 Documents, (4) Granting Expedited Discovery, and (5) Requiring Accountings;
7 And To Show Cause Re Preliminary Injunction And Appointment Of A Permanent
8 Receiver (the “Application”).

9 A. This Court has jurisdiction over the parties to, and the subject matter
10 of, this action.

11 B. Good cause exists to believe that Defendants Diversified Lending
12 Group, Inc. (“DLG”), Applied Equities, Inc. (“AEI”) and Bruce Friedman
13 (“Friedman”) (collectively, “the Defendants”), and each of them, have engaged in,
14 are engaging in, and are about to engage in transactions, acts, practices and courses
15 of business that constitute violations of Section 17(a) of the Securities Act of 1933
16 (“Securities Act”), 15 U.S.C. § 77q(a), Section 10(b) of the Securities Exchange
17 Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17
18 C.F.R. § 240.10b-5.

19 C. The Commission has demonstrated a probability of success on the
20 merits in this action.

21 D. Good cause exists to believe that the Defendants will continue to
22 engage in such violations to the immediate and irreparable loss and damage to
23 investors and to the general public unless they are restrained and enjoined.

24 E. Notice of this Preliminary Injunction has been provided to the
25 Defendants as required by F.R.C.P. 65(a)(1).

26 ///

27 ///

28 ///

1 I.

2 IT IS HEREBY ORDERED that the Commission's Application for an Order
3 of Preliminary Injunction and Orders: (1) Continuing Asset Freeze, (2) Appointing
4 a Permanent Receiver, (3) Prohibiting the Destruction of Documents, (4) Granting
5 Expedited Discovery, and (5) Requiring Accountings is GRANTED.

6 II.

7 IT IS FURTHER ORDERED that the Defendants, and their officers, agents,
8 servants, employees, attorneys, subsidiaries and affiliates, and those persons in
9 active concert or participation with any of them, who receive actual notice of this
10 Order, by personal service or otherwise, and each of them, be and hereby are
11 preliminarily restrained and enjoined from, directly or indirectly, in the offer or
12 sale of any securities, by the use of any means or instruments of transportation or
13 communication in interstate commerce or by use of the mails:

- 14 A. employing any device, scheme or artifice to defraud;
15 B. obtaining money or property by means of any untrue statement of a
16 material fact or any omission to state a material fact necessary in order
17 to make the statements made, in light of the circumstances under
18 which they were made, not misleading; or
19 C. engaging in any transaction, practice, or course of business which
20 operates or would operate as a fraud or deceit upon the purchaser;

21 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

22 III.

23 IT IS FURTHER ORDERED that the Defendants, and their officers, agents,
24 servants, employees, attorneys, subsidiaries and affiliates, and those persons in
25 active concert or participation with any of them, who receive actual notice of this
26 Order, by personal service or otherwise, and each of them, be and hereby are
27 preliminarily restrained and enjoined from, directly or indirectly, in connection
28 with the purchase or sale of any security, by the use of any means or

1 instrumentality of interstate commerce, or of the mails, or of any facility of any
2 national securities exchange:

- 3 A. employing any device, scheme or artifice to defraud;
- 4 B. making any untrue statement of a material fact or omitting to state a
5 material fact necessary in order to make the statements made, in the
6 light of the circumstances under which they were made, not
7 misleading; or
- 8 C. engaging in any act, practice, or course of business which operates or
9 would operate as a fraud or deceit upon any person;

10 in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule
11 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

12 IV.

13 IT IS FURTHER ORDERED that, except as otherwise ordered by this
14 Court, the Defendants, and their officers, agents, servants, employees, attorneys,
15 subsidiaries and affiliates, and those persons in active concert or participation with
16 any of them, who receive actual notice of this Order, by personal service or
17 otherwise, and each of them, be and hereby are preliminarily restrained and
18 enjoined from, directly or indirectly:

- 19 A. transferring, assigning, selling, hypothecating, changing, wasting,
20 dissipating, converting, concealing, encumbering, or otherwise
21 disposing of, in any manner, any funds, assets, securities, claims, or
22 other real or personal property, wherever located, of the Defendants,
23 or their subsidiaries and affiliates (including but not limited to
24 MMHIM, Inc., DLG International, a Panamanian company, and
25 SunWest Bottlers, LLC), owned by, controlled by, managed by or in
26 the possession or custody of any of them;
- 27 B. transferring, assigning, selling, hypothecating, encumbering, or
28 otherwise disposing of any securities, including, but not limited to,