

1 PAUL J. PASCUZZI, CA State Bar No. 148810
 FELDERSTEIN FITZGERALD
 2 WILLOUGHBY PASCUZZI & RIOS LLP
 500 Capitol Mall, Suite 2250
 3 Sacramento, CA 95814
 Telephone: (916) 329-7400
 4 Facsimile: (916) 329-7435
 ppascuzzi@ffwplaw.com

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 6 Attorneys for Elli M. A. Mills, J.D., MBA, Receiver

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 8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 In re:

Civil Action No. 2:08-cv-01276-KJD-RJJ

11 RECEIVERSHIP OF PLACER COUNTY
 12 LAND SPECULATORS

Date: September 8, 2020

Time: 11:00 a.m.

Judge: Hon. Kent J. Dawson

13 **STIPULATION FOR POSTPONMENT OF FORECLOSURE SALE**

14 Elli M. A. Mills, the Court Appointed Receiver herein (“Receiver”), and Secured Creditor
 15 IRA Services Trust Co. CFBO John Terry (“Terry” and, together with the Receiver, the
 16 “Parties”), hereby stipulate as follows:

17 **RECITALS**

18 A. On December 16, 2008, Elli M. A. Mills was appointed as Receiver for
 19 approximately 275 individual Lenders holding a beneficial interest (collectively, the “Placer
 20 Lenders”) in the Promissory Note dated on or about December 10, 2004, executed by Placer
 21 County Land Speculators, LLC aka Placer County Land Investors, LLC in the original principal
 22 amount of \$27,500,000; as modified by the First Amendment to Loan Documents dated February
 23 17, 2005; by the Second Amendment to Loan Documents dated April 12, 2005; by the Third
 24 Amendment to Loan Documents dated June 1, 2005; by the Fourth Amendment to Loan
 25 Documents dated July 13, 2005; by the Fifth Amendment to Loan Documents dated September
 26 19, 2005; and by the Sixth Amendment to Loan Documents dated November 3, 2005
 27 (collectively, the “Placer 1 Note”), but only to the extent of the Placer 1 Lenders’ interest in the
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1 Placer 1 Note. The ending principal amount of the Placer 1 Note was \$31,500,000.

2 B. The Placer 1 Note was secured by a Deed of Trust on real property located in
3 Placer County, California. The primary asset of the receivership estate is that real property (the
4 “Receivership Property”).

5 C. On or about December 22, 2008, the Receiver foreclosed the Placer 1 Lenders’
6 security interest in the Receivership Property. On December 31, 2008, the deed was recorded in
7 the records of Placer County, California. At that time, the approximately 275 individual Placer 1
8 Lenders became the owners as tenants in common of the Receivership Property (the “Owners”).

9 D. The Receivership Property consists of 338.6 acres of unimproved land located in
10 south Placer County, California. The Receivership Property is a part of the Placer Vineyards
11 Development, which is approximately 5,200 acres of land authorized under the Placer Vineyards
12 Specific Plan for approximately 14,000 home sites and retail and commercial property
13 development. In addition to the Receivership, there are 21 other landowners in the Placer
14 Vineyards Development.

15 E. The Receivership Property is planned for 994 residential units in three parcels: 9A
16 is 152.3 acres and is planned for 472 residential units; 9B is 126.5 acres and is planned for 273
17 residential units; and 9C is 59.50 acres and is planned for 249 residential units.

18 F. On April 20, 2015, this Court entered an order authorizing the Receiver to obtain
19 financing from Terry in the original amount of \$4,750,000 secured by a first priority deed of trust
20 on the Receivership Property (“Terry Loan”) and to issue receiver certificates in connection with
21 such financing. In the loan documents, Terry consented to the jurisdiction of the Court.
22 Throughout this case and at various times, the Court authorized the Receiver to increase the
23 principal amount of the Terry Loan to \$7,250,000 and extend the maturity date to March 31,
24 2020.

25 G. After the maturity date on March 31, 2020, Terry sent a default letter and then
26 caused a foreclosure trustee to record a Notice of Default and Election to Sell against the
27 Receivership Property on May 13, 2020. On August 17, 2020, Terry caused a Notice of Trustee’s
28 Sale to be recorded, setting a foreclosure sale date of September 23, 2020.

1 H. As the Court record demonstrates, during the pendency of this case, the Receiver
2 has made diligent efforts to liquidate the Receivership Property to pay the Terry Loan, unsecured
3 claims and distribute proceeds to the Owners. In the fall and winter of 2019-2020, the Receiver
4 began discussing a joint venture with Mr. Steve Tetrick of United Capital Corporation and KSM,
5 Inc. The general terms of the joint venture agreement had been agreed by the parties. They are
6 outlined in the Verified Receiver's Status Report at Docket No. 1049. It provides waterfall
7 returns to the parties, and in the Receiver's judgment, it would provide the best result to the
8 Owners in that the eventual return to them is projected to be in the range of 30% and 50% of their
9 original investment.

10 I. The Receiver contends that just at the time when the parties planned to draft and
11 enter into a joint venture agreement, the COVID-19 pandemic hit the country and the world,
12 causing economic uncertainties to the point that lenders and financial institutions universally put
13 funding projects on hold, resulting in difficulty in securing the financing for the joint venture.

14 J. The Receiver and the proposed joint venture partner continue to work to secure a
15 loan to facilitate the joint venture. This effort has recently borne fruit, such that the Receiver
16 believes that term sheets from potential lending sources are forthcoming soon, which will result in
17 a joint venture and operating agreement. Once an agreement is executed, it would be submitted
18 to the Owners for their review and the Court immediately thereafter for its approval. If approved
19 by the Court, the transaction would result in the payment in full of the Terry Loan, including all
20 interest and allowable costs.

21 K. On August 11, 2020, the Court held a status conference on the Receiver's potential
22 request for a temporary stay of the foreclosure sale pending finalization, court approval and
23 closing of a joint venture transaction. The Court asked the Parties to brief the issue of whether
24 the Court had the legal authority to issue a stay. At a further status conference on August 20,
25 2020, the Court set a further status conference for September 8, 2020, and a tentative evidentiary
26 hearing on September 14, 2020 to consider whether a stay should be granted.

27 L. Terry does not stipulate to the truth of the facts and statements set forth in these
28 Recitals.

1 M. The Parties have agreed on the following postponement of the foreclosure sale,
2 upon certain conditions set forth herein, to resolve the Receiver's request for a stay and to allow
3 the Receiver the opportunity to obtain Court approval of a joint venture transaction, if one is
4 obtained.

5 N. The Parties deem it to be in their mutual interests to enter into the stipulation
6 below.

7 **AGREEMENT**

8 NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby
9 acknowledged, all of the parties to this Stipulation hereby stipulate and agree as follows:

10 1. The Receiver will use his best efforts to produce a signed joint venture agreement,
11 which includes a non-refundable \$250,000 deposit ("Deposit") from the joint venture partner
12 ("Joint Venture Deal") to be deposited as set forth in paragraph 7 below in good funds no later
13 than 5 p.m. on September 17, 2020.

14 2. If the Receiver does not timely produce the Joint Venture Deal and the Deposit is
15 not timely paid, the Receiver shall not seek a further stay of the September 23, 2020 foreclosure
16 sale, and Terry may proceed with the foreclosure on the September 23, 2020 pursuant to the terms
17 of the Terry Loan and the recorded Notice of Trustee's Sale.

18 3. In the event the Receiver timely produces the Joint Venture Deal and the Deposit
19 is paid as set forth in paragraph 1, Terry shall cause the foreclosure sale to be postponed to allow
20 the Receiver to obtain Court approval of the Joint Venture Deal, the order approving it to become
21 non-appealable and the Joint Venture Deal to close within 45 days of Court approval of the Joint
22 Venture Deal. Terry may postpone the foreclosure sale to October 19, 2020 or thereafter, to
23 provide time for the hearing on the Joint Venture Deal as set forth below in paragraph 4.

24 4. The Receiver shall request that the Court set a hearing for approval of the Joint
25 Venture Deal on or about October 13-14, 2020 to allow approximately 20 days' notice to parties
26 in interest, which is shortened notice under the Receivership Order by approximately 20 days.
27 Assuming the Court approves the Joint Venture Deal and issues the order by October 16, 2020,
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1 Terry shall cause the foreclosure sale to be further postponed to December 2, 2020 or thereafter,
2 which will allow at least 45 days from the entry of the Court order approving the Joint Venture
3 Deal.

4 5. For the Joint Venture Deal to be considered for approval, it must include sufficient
5 funding to pay Terry in full at the closing of the Joint Venture Deal the Loan principal, all
6 accrued interest, all attorneys' fees and costs and all foreclosure fees and costs in accordance with
7 the terms of the note and modifications thereof ("Payoff"). The closing of the Joint Venture Deal
8 must occur such that Terry receives the Payoff in good funds no later 5:00 pm on November 30,
9 2020.

10 6. In the event the Joint Venture Deal does not close prior to November 30, 2020, the
11 Receiver shall pay Terry from the Deposit all accrued interest, property taxes, penalties, legal
12 fees, foreclosure fees and costs accrued from September 23, 2020 to December 2, 2020, up to, but
13 no greater than, the amount of the Deposit.

14 7. Further, in the event the Joint Venture Deal does not close prior to November 30,
15 2020, in addition to the payment described in paragraph 6 from the Deposit, Terry may proceed to
16 the foreclosure sale on or about December 2, 2020 pursuant to the terms of the Terry Loan and
17 the recorded Notice of Trustee's Sale, and the Receiver shall not seek a further stay of the
18 foreclosure sale and shall not take any other action to delay the foreclosure sale.

19 8. The non-refundable deposit for the Joint Venture Deal shall be held in a separate
20 trust account by counsel for the Receiver.

21 9. The Parties hereby jointly request that the Court take the evidentiary hearing set
22 for September 14, 2020, off calendar.

23 10. The provisions of this Stipulation shall bind the Parties and their successors and
24 assigns.

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11. The Court shall retain jurisdiction to interpret, implement, and enforce the provisions of this Stipulation.

Dated: September 4, 2020

FELDERSTEIN FITZGERALD
WILLOUGHBY PASCUZZI & RIOS LLP

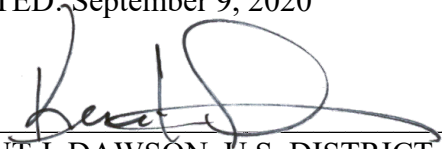
By: /s/ Paul J. Pascuzzi
PAUL J. PASCUZZI
Attorneys for Elli M. A. Mills, Receiver

Dated: September 4, 2020

PARKINSON PHINNEY

By: /s/ Donna Parkinson
DONNA PARKINSON
Attorneys for IRA Services Trust Co. CFBO John Terry

IT IS SO ORDERED.
DATED: September 9, 2020


KENT J. DAWSON, U.S. DISTRICT JUDGE