

1 WILKE, FLEURY, HOFFELT, GOULD & BIRNEY, LLP
 2 DANIEL L. BAXTER (SBN 203862)
 3 dbaxter@wilkefleury.com
 4 400 Capitol Mall, Twenty-Second Floor
 5 Sacramento, CA 95814
 6 Telephone: (916) 441-2430
 7 Facsimile: (916) 442-6664

8 Attorneys for Plaintiff/Counter-Defendant
 9 BRIAN DAWE; Plaintiff FLAT IRON MOUNTAIN
 10 ASSOCIATES, LLC, formerly known as Flat Iron Mountain
 11 Associates, a Partnership; Defendant/Counter-Plaintiff
 12 GARY HARKINS; and Defendant RICHARD LOUD

13 UNITED STATES DISTRICT COURT
 14 FOR THE EASTERN DISTRICT OF CALIFORNIA

15 BRIAN DAWE; FLAT IRON
 16 MOUNTAIN ASSOCIATES, LLC,
 17 formerly known as Flat Iron Mountain
 18 Associates, a Partnership,

19 Plaintiffs,

20 v.

21 CORRECTIONS USA, a California
 22 Corporation; CALIFORNIA
 23 CORRECTIONAL PEACE OFFICERS
 24 ASSOCIATION, a California Corporation;
 25 JAMES BAIARDI, an individual;
 26 DONALD JOSEPH BAUMANN, an
 27 individual,

28 Defendants.

AND RELATED CLAIMS AND
 COUNTERCLAIMS

Case No. 2:07-CV-01790 LKK EFB

[Consolidated Master Case Number]

**JOINT INSTRUCTIONS FOR RELEASE
 OF FUNDS ON DEPOSIT, PAYMENT OF
 JUDGMENT, AND RELEASE OF DEEDS
 OF TRUST**

Trial Information

DATE: July 27, 2010
 TIME: 10:30 a.m.
 CRTRM: 4
 JUDGE: Hon. Lawrence K. Karlton

By and through their respective attorneys of record, the parties hereto jointly issue the following instructions to the Court Clerk and themselves relating to the payment of judgment in this matter, as follows:

RECITALS

Final judgment in this matter was entered by the Court on April 25, 2011. (CM/ECF Doc. No. 574.) Thereafter, and pursuant to Defendants' application, the Court permitted Defendants to post

1 alternative security for the judgment pending appeal in the form of (a) the deposit with the Court Clerk
2 of the trust deeds for four pieces of real property owned by Defendant CCPOA, and (b) the quarterly
3 deposit of \$500,000 with the Court Clerk, up to 125% of the total judgment in the action. (CM/ECF
4 Doc. Nos. 586 and 610.) On June 3, 2011, Defendants deposited the respective deeds of trust for the
5 four properties (CM/ECF Doc. Nos. 592, 596-599), and on September 14, 2011, December 20, 2011,
6 March 21, 2012, June 19, 2012, September 21, 2012, and December 17, 2012, Defendants made the
7 required quarterly deposits, totaling \$3,000,000 to date. (CM/ECF Doc. Nos. 612-617.)

8 On or about February 1, 2013, the United States Court of Appeals for the Ninth Circuit issued
9 its ruling affirming this Court's judgment in full. (CM/ECF Doc. No. 618.) Following that ruling, and
10 the subsequent orders by both this Court and the Ninth Circuit taxing costs against Defendants
11 (CM/ECF Doc. Nos. 621 and 622), the total amounts due from Defendants to Plaintiffs are as follows:

- 12 1. Principal Judgment: \$4,959,815
- 13 2. Accrued Interest From October 25, 2010 through March 22, 2013: \$46,325.81¹
- 14 3. Costs—Appellate Court: \$305.80
- 15 4. Costs—District Court: \$20,003.65
- 16 5. **Total Judgment With Interest and Costs Through March 22, 2013: \$5,026,450.26²**

17 INSTRUCTIONS

18 In light of the above-referenced facts and circumstances, the parties now hereby jointly instruct
19 the Court Clerk and themselves, as follows:

- 20 a. As soon as practicable, the Court Clerk shall release the funds currently on deposit by
21 wiring said funds to the trust account of Wilke, Fleury, Hoffelt, Gould & Birney, LLP
22 (Plaintiffs' counsel), whose wiring information will be provided to the Court Clerk via
23 a separate, confidential transmission.

24 ///

26 _____
27 ¹ Note that interest accrues from the date of the original judgment in this matter (10/25/2010), prior to
28 remittitur.

² Additional interest accrues at a rate of \$30.04 per day.

- 1 b. Within three (3) business days following the Court Clerk's wiring of the funds
2 currently on deposit, Defendants shall wire the remaining amounts due on the
3 judgment, including accrued interest to the date of said wiring, to the trust account of
4 Wilke, Fleury, Hoffelt, Gould & Birney, LLP.
- 5 c. Within three (3) business days following Defendants' wiring of the funds described in
6 Item b., above, Plaintiffs will verify and notify Defendants that the total funds
7 described in Items a. and b., above, have been received in Wilke, Fleury, Hoffelt,
8 Gould & Birney, LLP's trust account.
- 9 d. Within three (3) business days following the verification and notification in Item c.,
10 above, the parties will jointly issue supplemental instructions to the Court Clerk
11 directing that the deeds of trust currently on deposit be released to Defendant CCPOA.

12 The below signatures of counsel reflect the parties' mutual agreement and joint instructions
13 that the above-referenced acts be taken.

14 DATED: March 22, 2013

WILKE, FLEURY, HOFFELT, GOULD &
BIRNEY, LLP

15
16
17 By: /s/ Daniel L. Baxter
 DANIEL L. BAXTER
18 Attorneys for Plaintiff/Cross-Defendant
19 BRIAN DAWE; Plaintiff FLAT IRON
20 MOUNTAIN ASSOCIATES, LLC.;
21 Defendant/Counter-Plaintiff GARY
 HARKINS; and Defendant RICHARD
 LOUD

22 DATED: March 22, 2013

MANATT PHELPS & PHILLIPS, LLP

23
24 By: /s/ Dean J. Zipser
 DEAN J. ZIPSER
25 Attorneys for Defendants CORRECTIONS
26 USA; CALIFORNIA CORRECTIONAL
27 PEACE OFFICERS ASSOCIATION;
 JAMES BAIARDI; and DONALD
 JOSEPH BAUMANN