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6 BRIAN DAWE; Plaintiff FLAT IRON MOUNTAIN
7 ASSOCIATES, LLC, formerly known as Flat Iron Mountain
Associates, a Partnership; Defendant/Counter-Plaintiff
7 GARY HARKINS; and Defendant RICHARD LOUD

8

9 UNITED STATES DISTRICT COURT

10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 BRIAN DAWE; FLAT IRON
12 MOUNTAIN ASSOCIATES, LLC,
13 formerly known as Flat Iron Mountain
Associates, a Partnership,

14 Plaintiffs,

15 v.

16 CORRECTIONS USA, a California
17 Corporation; CALIFORNIA
18 CORRECTIONAL PEACE OFFICERS
ASSOCIATION, a California Corporation;
JAMES BAIARDI, an individual;
DONALD JOSEPH BAUMANN, an
individual,

19 Defendants.

20
21 AND RELATED CLAIMS AND
COUNTERCLAIMS
22

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

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

26 **RECITALS**

27 Final judgment in this matter was entered by the Court on April 25, 2011. (CM/ECF Doc. No.
28 574.) 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 / / /

25
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.

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

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

DATED: March 22, 2013

WILKE, FLEURY, HOFFELT, GOULD &
BIRNEY, LLP

By: /s/ Daniel L. Baxter

DANIEL L. BAXTER

Attorneys for Plaintiff/Cross-Defendant
BRIAN DAWE; Plaintiff FLAT IRON
MOUNTAIN ASSOCIATES, LLC,;
Defendant/Counter-Plaintiff GARY
HARKINS; and Defendant RICHARD
LOUD

DATED: March 22, 2013

MANATT PHELPS & PHILLIPS, LLP

By: /s/ Dean J. Zipser

DEAN J. ZIPSER

Atorneys for Defendants CORRECTIONS
USA; CALIFORNIA CORRECTIONAL
PEACE OFFICERS ASSOCIATION;
JAMES BAIARDI; and DONALD
JOSEPH BAUMANN