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10 *Attorneys for Receiver*  
11 Stephen E. Anderson

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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
**SACRAMENTO**

10 SECURITIES AND EXCHANGE  
11 COMMISSION,  
12 *Plaintiff*  
13  
14 v.  
15 ANTHONY VASSALLO, et al,  
16 *Defendants.*

Case No. CV 09-000665 LKK-DAD  
**STIPULATION AND ORDER PLACING  
EIMT PROPERTIES, LLC UNDER  
RECEIVER'S AUTHORITY**

Judge Lawrence K. Karlton

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**RECITALS**

20 Pursuant to orders dated April 30, 2009 and July 31, 2009, the Court appointed Stephen  
21 E. Anderson (“Receiver”) as Receiver over Defendant Equity Investment Management Trading,  
22 Inc. (“EIMT”).

23 The Court has empowered Receiver to “take all steps the receiver deems necessary to  
24 secure and protect the assets and property of EIMT....” Order Appointing Temporary Receiver  
25 for Equity Investment Management and Trading, Inc. and Order to Show Cause for Appointment  
26 of Permanent Receiver dated April 30, 2009 (“OAR”), ¶ III B.

27 Receiver’s investigation into the affairs of EIMT has revealed an entity was formed called  
28 EIMT Properties, LLC in or around July 2007. Receiver believes that EIMT was the sole  
member of EIMT Properties, LLC at the time it was formed. EIMT investor funds were used to  
purchase a property located at 3788 Century Drive, Island Park, Idaho 83429 (the “Idaho

1 Property") in the name of EIMT Properties, LLC. Of the \$2,750,000 paid for the Idaho Property,  
2 \$500,000 was returned to the purchaser from the seller in escrow at the time of purchase, and the  
3 seller holds a \$1,000,000 note and deed of trust on the property. Receiver believes that the  
4 \$500,000 in cash returned to the purchaser was invested in the name of EIMT Properties, LLC.  
5 Receiver believes all assets in the name of EIMT Properties, LLC were purchased with EIMT  
6 investor funds.

7 Defendant Kenneth Kenitzer is the Trustee for the Kenitzer Family Foundation. Prior to  
8 November 4, 2008, the Kenitzer Family Foundation was a fifty percent (50%) member of Tracy  
9 Clover 22, LLC, which was a business entity formed in California in 2002, before the fraudulent  
10 activity alleged in the complaint in this action. Tracy Clover 22, LLC owns an interest in a Tracy,  
11 California shopping center (the "Tracy Shopping Center").

12 On November 4, 2008, EIMT, acting through Defendant Anthony Vassallo, and the  
13 Kenitzer Family Foundation, acting through Defendant Kenneth Kenitzer, entered into an  
14 "Exchange Agreement" and an "Assignment of Interests" through which EIMT purported to  
15 transfer its membership interest in EIMT Properties, LLC to the Kenitzer Family Foundation in  
16 exchange for the Kenitzer Family Foundation's fifty percent (50%) membership interest in Tracy  
17 Clover 22, LLC (the "Membership Transfer"). The purported Membership Transfer had the  
18 effect of transferring ownership of the Idaho Property and investment funds held in the name of  
19 EIMT Properties, LLC to the Kenitzer Family Foundation and the fifty percent (50%) interest in  
20 Tracy Clover 22, LLC (and its interest in the Tracy Shopping Center) to EIMT.

21 Receiver does not believe that the purported Membership Transfer conveyed fair and  
22 adequate value to the EIMT investors.

23 Defendant Kenneth Kenitzer, on behalf of the Kenitzer Family Foundation, is willing to  
24 stipulate and agree that the assets held by EIMT Properties, LLC belong to EIMT and further  
25 stipulate and agree that EIMT Properties, LLC be placed under authority of Receiver under the  
26 same terms and conditions as in the OAR and the July 31, 2009 Order permanently appointing  
27 Receiver. Defendant Kenneth Kenitzer represents that he is authorized to make this stipulation on  
28 behalf of the Kenitzer Family Foundation.

1 Receiver believes that EIMT has no interest in Tracy Clover 22, LLC, and has been unable  
2 to identify any EIMT investor funds that were used in connection with any assets held by Tracy  
3 Clover 22, LLC. Accordingly, Receiver shall file a noticed motion seeking Court authorization to  
4 unwind the purported transfer of the Kenitzer Family Foundation's fifty percent (50%)  
5 membership interest in Tracy Clover 22, LLC to EIMT, in exchange for EIMT's membership  
6 interest in EIMT Properties, LLC, and relinquishing all claim of EIMT to any interest in Tracy  
7 Clover 22, LLC, which will restore the Kenitzer Family Foundation's ownership interest in Tracy  
8 Clover 22, LLC.

## STIPULATION

10 NOW, THEREFORE, Receiver, on behalf of EIMT, through his counsel of record, and  
11 Defendant Kenneth Kenitzer, as Trustee for the Kenitzer Family Foundation, HEREBY  
12 STIPULATE AND AGREE AS FOLLOWS:

13           1.       EIMT is the sole owner of any and all membership interests in EIMT Properties,  
14 LLC.

15           2.        Receiver Stephen E. Anderson shall be appointed Receiver over EIMT Properties,  
16 LLC with all of the same rights, duties, powers and obligations for EIMT Properties, LLC as he  
17 has over EIMT as set forth in the OAR dated April 30, 2009, and the July 31, 2009 order making  
18 Receiver a permanent Receiver.

19           3.     Receiver shall file a noticed motion seeking Court authorization to unwind the  
20 purported transfer of the Kenitzer Family Foundation's fifty percent (50%) membership interest in  
21 Tracy Clover 22, LLC to EIMT, in exchange for EIMT's membership interest in EIMT  
22 Properties, LLC, and relinquishing all claim of EIMT to any interest in Tracy Clover 22, LLC,  
23 which will restore the Kenitzer Family Foundation's ownership interest in Tracy Clover 22, LLC.

**IT IS SO STIPULATED AND AGREED.**

**25** | Dated: September 1, 2009

FUTTERMAN DUPREE DODD CROLEY  
MAIER LLP

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By:Jamie L. Dupree  
Jamie L. Dupree  
Attorneys for Receiver Stephen E. Anderson

1 Dated: September 1, 2009

KENITZER FAMILY FOUNDATION

2 By: Kenneth L. Kenitzer

3 Kenneth Kenitzer, Trustee

4 **[PROPOSED] ORDER**

5 Having reviewed the parties' Stipulation and Proposed Order Placing EIMT Properties,  
6 LLC under Receiver's Authority, and for good cause shown,

7 **THE COURT FINDS AND ORDERS:**

8 1. EIMT is the sole owner of any and all membership interests in EIMT Properties,  
9 LLC.

10 2. Receiver Stephen E. Anderson is hereby appointed Receiver over EIMT  
11 Properties, LLC with all of the same rights, duties, powers and obligations for EIMT Properties,  
12 LLC as he has over EIMT as set forth in the OAR dated April 30, 2009, and the July 31, 2009  
13 order making Receiver a permanent Receiver. No further bond shall be required of Receiver.

14 3. If he has not already done so, Receiver shall file a noticed motion seeking Court  
15 authorization to unwind the purported transfer of the Kenitzer Family Foundation's fifty percent  
16 (50%) membership interest in Tracy Clover 22, LLC to EIMT, in exchange for EIMT's  
17 membership interest in EIMT Properties, LLC, and relinquishing all claim of EIMT to any interest  
18 in Tracy Clover 22, LLC, which will restore the Kenitzer Family Foundation's ownership interest  
19 in Tracy Clover 22, LLC.

20 **IT IS SO ORDERED.**

21  
22 Dated: September 3, 2009

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25 LAWRENCE K. KARLTON  
26 SENIOR JUDGE  
27 UNITED STATES DISTRICT COURT  
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