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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 Peter B, Inc., et al.,

NO. C 09-00360 JW

11 Plaintiffs,

**ORDER FOLLOWING FURTHER CASE
MANAGEMENT CONFERENCE;
APPOINTMENT OF SPECIAL MASTER**

12 v.

13 Reid Schantz, et al.,

14 Defendants.
_____ /

15 On November 10, 2010, after a judicially supervised Settlement Conference, the parties to
16 this case entered into a Settlement Agreement that was recited in open court. (See Docket Item No.
17 152.) Under the terms of the Settlement the parties agreed to execute various documents and to
18 make various payments. A transcript of the proceedings is being used by the parties as a guide for
19 the execution of the Settlement.

20 On December 13, 2010, the Court conducted a Further Case Management Conference to
21 determine the progress of executing the Settlement. Mr. Jack Ferguson, principal of Plaintiff Peter
22 B., Inc. and counsel for the respective parties were present. Based on representations at the
23 Conference, the Court determined that there were issues with respect to: (1) the wording of various
24 documents; (2) when various documents should be delivered in relationship to payments; (3) the
25 timing of appraisals, and (4) various other matters. The Court suggested that in order to avoid these
26 difficulties in execution, the parties consider having the Court appoint a special master who would
27 be empowered to collect all of the documents and payments, inspect them for compliance with the
28 terms of the Settlement, and deliver them in execution of the Settlement upon stipulation of the

1 parties or further order of the Court. All of the parties agreed to appointment of a Special Master for
2 execution of the settlement. It was further agreed that Defendants shall deposit the three-thousand
3 dollar reimbursement for appraisal costs directly into the escrow account. Moreover, Defendants
4 shall resubmit a copy of their MAI certified appraisal of the Fresno property to Plaintiffs so that
5 Plaintiffs can decide if they will seek any further appraisal.

6 **A. Appointment of a Special Master**

7 Accordingly, pursuant to Fed. R. Civ. P. 53, and the stipulation of the parties to this case, the
8 Court appoints Mr. George Fisher as Special Master, with the following powers and duties and those
9 ancillary thereto:

10 (1) The Special Master shall review the transcript of the Stipulation of Settlement. On
11 behalf of the Court, the Special Master shall gather from each party all documents, payments or
12 items due from each party as part of the Settlement and hold these items in escrow.

13 (2) The Special Master shall inspect each document or item and determine if it complies
14 with the Stipulated Settlement. If not, the Special Master shall seek compliance or seek to resolve
15 the difference to the satisfaction of all parties.

16 (3) If necessary to properly transfer interests in real property, the Special Master may open
17 professional escrow accounts for the purpose of obtaining clear title. Any fees associate with such
18 accounts shall be borne equally by the parties, unless the Special Master makes a determination
19 otherwise.

20 (4) If necessary, the Special Master shall establish a bank account for the holding of money
21 in trust. The Special Master shall indicate to the parties his proposed delivery or disposition of the
22 items held by him. If all parties stipulate in writing to the proposed actions, the Special Master shall
23 close the escrow in accordance with the joint stipulations. If any party objects to the proposed
24 deliver, the Special Master shall bring the matter to the attention of the Court. Mr. Ferguson has
25 specifically requested that any funds distributable to Peter B., Inc. be made in his name. If the
26 Special Master receives contrary instructions, the matter shall be brought to the immediate attention
27 of the Court. If checks are received for the Settlement in the name of any party or their attorneys,
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1 the party or the attorney to whom the checks are made payable shall endorse it in trust to the Special
2 Master.

3 (5) In the event of further court proceedings, the Special Master shall advise the Court of the
4 nature of the objection and make recommendations to the Court with respect to the matter.

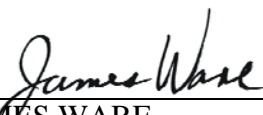
5 **B. Affidavit, Fees and Costs of the Special Master**

6 To complete the appointment, Mr. Fisher shall file the affidavit required by Rule 53(b)(3) of
7 Federal Rules of Civil Procedure within five (5) days from the date of this Order. The Special
8 Master's fees will be shared equally by the parties, namely, one third shall be paid by Plaintiffs and
9 one third each paid by Defendants. The Special Master will bill at the rate of \$400.00 per hour.

10 **C. Further Case Management Conference Re. Settlement**

11 The Court sets **February 14, 2011 at 11 a.m.** for a Further Case Management Conference re.
12 Settlement. On or before **January 17, 2011**, the Special Master shall file his Report and
13 Recommendation. On or before **January 31, 2011**, any party objecting to the Final Settlement and
14 Release Agreement shall formally file and serve their Objections.

15
16 Dated: December 13, 2010



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Brian Douglas McFarlin bmcfarlin@ericksenarbuthnot.com
Kevin John Mirch mirch@charterinternet.com
3 Liam John O'Connor nriz@eakdl.com
Marie C. Mirch bobogriz@aol.com
4 Reid Paul Schantz rps.esq@sasquatch.com
Steve W. Dollar nriz@eakdl.com
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6 **Dated: December 13, 2010**

Richard W. Wieking, Clerk

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8 **By: /s/ JW Chambers**
Elizabeth Garcia
Courtroom Deputy
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