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5 Attorneys for Stephen J. Donell, State Court Receiver

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10

**VAN NUYS COURTHOUSE EAST**

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12 TARZANA PLAZA CONDOMINIUMS  
ASSOCIATION, a California nonprofit  
13 mutual benefit corporation,

14 Plaintiff,

15 v.

16 EUGENE SAAL, an individual; RUBICELIA  
SCHULTZ, an individual; JUDY WEISS, an  
17 individual; PASCAL BRENNINKMEIJER, an  
individual; and DOES 1-25, inclusive,

18 Defendant.

19

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Case No. LC106595

EX PARTE MOTION OF STEPHEN J.  
DONELL, STATE COURT RECEIVER, TO  
OBTAIN AUTHORITY TO COMMENCE  
LITIGATION; MEMORANDUM OF  
POINTS AND AUTHORITIES;  
DECLARATIONS OF STEPHEN J. DONELL  
AND BYRON Z. MOLDO; DECLARATION  
OF TERESA M. CASTELLI RE NOTICE

Date: December 13, 2018

Time: 8:30 a.m.

Dept.: A

21

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD HEREIN:

22

Stephen J. Donell, State Court Receiver (“Receiver”) herewith presents his Ex Parte

23

Motion To Obtain Authority to Commence Litigation, and states as follows:

24

25

1. Stephen J. Donell is the duly, qualified and acting State Court Receiver of Tarzana

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Plaza Condominiums Association, a California nonprofit mutual benefit corporation

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(“Association”) pursuant to this Court’s May 17, 2018 *Order Appointing Receiver and Order to*

28

1 *Show Cause Why Receiver Should Not Be Confirmed* (“Order”). A copy of the Order is attached  
2 hereto, marked **Exhibit “A,”** and incorporated herein by reference.

3         2.         The Order appointed the Receiver to take possession, custody, control and to  
4 manage and operate the Association, and any and all real and personal property belonging to the  
5 Association, including, without limitation, the 101-unit condominium development located at  
6 18530 Hatteras Street, Tarzana, CA (“Property”).

7         3.         After entering upon his duties, the Receiver reviewed certain books and records of  
8 the Association, and determined that prior to his appointment, the Association disbursed  
9 substantial amounts to attorneys. Specifically, the Receiver believes that the Association paid  
10 attorneys Barak Isaacs, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, and Jeffrey Schwartz  
11 (“Attorneys”), and some of the amounts paid to the Attorneys were, in the Receiver’s opinion, for  
12 the personal defense and indemnity of various individuals, not the Association, including but not  
13 limited to Silvana Solari, Ruth Cruz, Antonio Harris, Kandy Deprosse, and Robert Taylor  
14 (collectively “Owners”). The Receiver also believes that claims exist against J&N Realty, Inc.  
15 (“J&N”), the prior management company of the Property.

16         4.         On September 25, 2018, this Court filed its Order Authorizing Receiver to Attempt  
17 to Recover Funds (“Recovery Order”). A copy of the Recovery Order is attached hereto, marked  
18 **Exhibit “B,”** and incorporated herein by reference.

19         5.         Pursuant to the Recovery Order, the Receiver has attempted to recover funds for the  
20 benefit of the Association, but has not been successful.

21         6.         The Receiver’s general counsel, Ervin Cohen & Jessup LLP (“ECJ”), has informed  
22 him that they will not agree to commence litigation to recover funds for the benefit of the  
23 Association unless and until adequate financial arrangements are made to their satisfaction.

24         7.         The Receiver seeks authorization, not a mandate, to commence litigation to recover  
25 funds for the benefit of the Association provided adequate arrangements are made to finance such  
26 litigation.

27         8.         Assuming that financial arrangements are made, the Receiver may use ECJ or  
28 another law firm to commence and prosecute any litigation for the purposes described in this

1 motion.

2 WHEREFORE, the Receiver prays that this Court enter its order herein as follows:

3 1. Authorizing the Receiver to commence and prosecute litigation to recover funds  
4 that were, in the Receiver's opinion or belief, improperly paid by the Association to or for the  
5 benefit of various individuals and entities including but not limited to the Attorneys and Owners,  
6 or to pursue claims against J&N, provided adequate financial arrangements are made to the  
7 satisfaction of the Receiver and the attorneys that will commence and prosecute the litigation;

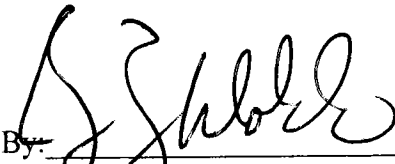
8 2. Requiring this Court to approve any proposed settlement of litigation to recover  
9 funds for the benefit of the Association;

10 3. For such further and other relief as the Court may deem just and proper.

11 DATED: December 12, 2018

Respectfully submitted,

ERVIN COHEN & JESSUP LLP

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15 By: 

16 BYRON Z. MOLDO  
17 Attorneys for Stephen J. Donell,  
18 State Court Receiver  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **FACTUAL BACKGROUND**

4 On May 17, 2018, this Court filed the *Order Appointing Receiver and Order to Show*  
5 *Cause Why Receiver Should Not Be Confirmed* (“Order”), and appointed Stephen J. Donell as the  
6 State Court Receiver of Tarzana Plaza Condominiums Association, a California nonprofit mutual  
7 benefit corporation (“Association”).

8 The Order appointed the Receiver to take possession, custody, control and to manage and  
9 operate the Association, and any and all real and personal property belonging to the Association,  
10 including, without limitation, the 101-unit condominium development located at 18530 Hatteras  
11 Street, Tarzana, CA (“Property”).

12 On September 25, 2018, this Court filed its Order Authorizing Receiver to Attempt to  
13 Recover Funds (“Recovery Order”).

14 II.

15 **THIS COURT SHOULD AUTHORIZE THE RECEIVER**  
16 **TO COMMENCE LITIGATION TO RECOVER FUNDS**  
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18 As set forth in the accompanying declaration of Stephen J. Donell, the Receiver believes  
19 that claims exist to recover funds for the benefit of the Association. While the current financial  
20 condition is not adequate to finance litigation, the Receiver nevertheless seeks authorization to  
21 commence litigation provided adequate financial arrangements are made to the satisfaction of the  
22 Receiver and the attorneys that will commence and prosecute the litigation

23 Code of Civil Procedure §568 provides as follows:

24 “The receiver has, under the control of the Court, power to bring  
25 and defend actions in his own name, as receiver; to take and keep  
26 possession of the property, to receive rents, collect debts, to compound  
27 for and compromise the same, to make transfers, and generally to do  
28 such acts respecting the property as the Court may authorize.”

1 The Receiver requests that this Court authorize, not require, him to commence litigation to recover  
2 funds for the benefit of the Association provided adequate financial arrangements are made.

3  
4 III.

5 CONCLUSION

6 Based on the foregoing, the Receiver submits that it is appropriate to authorize him to  
7 commence litigation to recover funds for the Association provided adequate financial  
8 arrangements are made with the attorneys that will commence and prosecute the litigation.

9 DATED: December 12, 2018

Respectfully submitted,

10 ERVIN COHEN & JESSUP LLP

11   
12 BY: \_\_\_\_\_  
13 BYRON Z. MOLDO

14 Attorneys for Stephen J. Donell, State Court Receiver  
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**DECLARATION OF STEPHEN J. DONELL**

I, Stephen J. Donell, declare as follows:

1. I am the duly appointed, qualified and acting State Court Receiver for Tarzana Plaza Condominiums Association (“Association”) pursuant to this Court’s May 17, 2018 *Order Appointing Receiver and Order to Show Cause Why Receiver Should Not Be Confirmed* (“Order”).

A copy of the Order is attached hereto, marked Exhibit “A,” and incorporated herein by reference. All of the statements contained within this declaration are true of my own personal knowledge.

2. The Order appointed me as the Receiver to take possession, custody, control and to manage and operate the Association, and any and all real and personal property belonging to the Association, including, without limitation, the 101-unit condominium development located at 18530 Hatteras Street, Tarzana, CA (“Property”).

3. After entering upon my duties, I reviewed certain books and records of the Association, and determined that prior to my appointment, the Association disbursed substantial amounts to attorneys. Specifically, I believe that the Association paid attorneys Barak Isaacs, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, and Jeffrey Schwartz (“Attorneys”), and some of the amounts paid to the Attorneys were, in my opinion, for the personal defense and indemnity of various individuals, not the Association, including but not limited to Silvana Solari, Ruth Cruz, Antonio Harris, Kandy Deprosse, and Robert Taylor (collectively “Owners”). I also believe that claims exist against J&N Realty, Inc., the prior management company of the Property.

4. On September 25, 2018, this Court filed its Order Authorizing Receiver to Attempt to Recover Funds (“Recovery Order”). A copy of the Recovery Order is attached hereto, marked **Exhibit “B,”** and incorporated herein by reference.

5. Pursuant to the Recovery Order, I have attempted to recover funds for the benefit of the Association, but have not been successful.

6. My general counsel, Ervin Cohen & Jessup LLP (“ECJ”), has informed me that they will not agree to commence litigation to recover funds for the benefit of the Association unless and until adequate financial arrangements are made to their satisfaction.

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7. Currently, there are not any funds available to pay for legal fees and costs to commence and prosecute litigation to recover funds for the benefit of the Association.

8. I seek authorization, not a mandate, to commence litigation to recover funds for the benefit of the Association provided adequate arrangements are made to finance such litigation.

9. Assuming that financial arrangements are made, I may use ECJ or another law firm to commence and prosecute any litigation for the purposes described in this motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of December, 2018, at Los Angeles, California.



STEPHEN J. DONELL

**DECLARATION OF BYRON Z. MOLDO**

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I, Byron Z. Moldo, declare as follows:

1. I am an attorney licensed to practice law in the State of California, and a partner in the law firm of Ervin Cohen & Jessup LLP ("ECJ"), general counsel for Stephen J. Donell, State Court Receiver ("Receiver") for Tarzana Plaza Condominiums Association ("Association"). All of the statements contained within this declaration are true of my own personal knowledge.

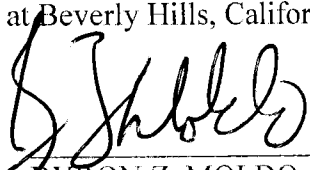
2. On September 25, 2018, this Court filed its Order Authorizing Receiver to Attempt to Recover Funds ("Recovery Order").

3. Pursuant to the Recovery Order, on behalf of the Receiver, I have attempted to recover funds for the benefit of the Association, but have not been successful.

4. I informed the Receiver that ECJ will not agree to commence litigation to recover funds for the benefit of the Tarzana Plaza Homeowners Association unless and until adequate financial arrangements are made to their satisfaction.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12<sup>th</sup> day of December, 2018, at Beverly Hills, California.

  
BYRON Z. MOLDO



**DECLARATION OF TERESA M. CASTELLI**

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I, Teresa M. Castelli, declare as follows:

1. I am an advanced certified paralegal in the law firm of Ervin Cohen & Jessup LLP, The facts stated herein are known to me from my personal knowledge and based upon the books and records regularly used and maintained in my business. If called upon to do so, I could and would competently testify as to all facts contained herein.

2. In accordance with California Rules of Court, Rule 3.1203, I notified the parties of the Receiver’s intent to present the *ex parte* (the “Motion”) Motion of Stephen J. Donell, State Court Receiver, To Obtain Authority to Commence Litigation.

a. On December 12, 2018, at 8:39 a.m., I emailed counsel for defendant Rubicelia Schultz, Alan F. Broidy, special counsel Rob Strom, and Eugene Saal, Pascal Brenninkmeijer, Judy Weiss, Silvana Solari, Tony Harris, and Kandy Deprosse and informed them that the Receiver would present this Motion before the Court on December 13, 2018 at 8:30 a.m. in Department A, and request an order from this Court. I received an error message and re-sent the email to Tony Harris at 9:45 a.m. Attached hereto as Exhibit “C” are true and correct copies of those emails. I also telephoned Linda Cooper at 9:02 a.m. and advised her of the hearing.

b. I also inquired if the parties planned to oppose the Application.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th day of December, 2018, at Beverly Hills, California.

Teresa M. Castelli  
TERESA M. CASTELLI

# EXHIBIT A

Eandi Fitzpatrick LLP

1 Matthew J. Eandi (SBN 279734)  
meandi@effirm.com  
2 Devon F. Spencer (SBN 296847)  
dspencer@effirm.com  
3 **EANDI FITZPATRICK LLP**  
633 West Fifth Street, 26<sup>th</sup> Floor  
4 Los Angeles, California 90071  
Telephone: (213) 347-5686  
5 Facsimile: (213) 863-0828

6 Attorneys for Plaintiff  
Tarzana Plaza Condominiums Association  
7

**FILED**  
Superior Court Of California  
County Of Los Angeles  
MAY 17 2018  
Sherril R. Carter, Executive Officer/Clerk  
By: *[Signature]* Deputy  
Sherril R. Carter

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES**  
10 **Northwest District**  
11

12 TARZANA PLAZA CONDOMINIUMS  
ASSOCIATION, a California nonprofit mutual  
13 benefit corporation,

14 Plaintiff,

15 v.

16 EUGENE SAAL, an individual; RUBICELIA  
SCHULTZ, an individual; JUDY WEISS, an  
17 individual; PASCAL BRENNINKMEIJER, an  
individual; ARYEH PATHI, an individual;  
18 and DOES 1-25, inclusive,  
19 Defendants.  
20

Case No.: LC106595

Related Cases: 16K04378  
LC106242

**~~PROPOSED~~ ORDER APPOINTING  
RECEIVER AND ORDER TO SHOW  
CAUSE WHY RECEIVER SHOULD  
NOT BE CONFIRMED**

Assigned for all purpose to the Honorable  
Huey P. Cotton, Department A

21 The *ex parte* application ("Application") of Plaintiff, TARZANA PLAZA  
22 CONDOMINIUMS ASSOCIATION ("Association") for appointment of a receiver, originally  
23 filed on March 5, 2018, came on for continued hearing on May 17, 2018 at 8:30 a.m. in Department  
24 A of the above-entitled court, the Honorable Huey P. Cotton, Superior Court Judge presiding.  
25 Appearance were made as reflected in the Court's minutes.

26 GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED THAT:

27 The Application <sup>is stipulated to and</sup> is GRANTED and a receiver is appointed, effective immediately, as set  
28

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1 forth herein. Furthermore, pursuant to California Rules of Court, R. 3.1176, the Court <sup>HHC</sup> orders  
2 ~~Defendants to appear in this Court and show cause why the appointment of a receiver should not~~  
3 ~~be confirmed, which shall be set for hearing on \_\_\_\_\_, 2018 at \_\_\_\_\_ in~~  
4 ~~Department A of the above-entitled Court.~~ Defendants shall be served with this order by counsel  
5 for the Plaintiff. Service may be effectuated via US Mail.

6 **ORDER APPOINTING RECEIVER**

7 1. Stephen J. Donell (the "Receiver") is hereby appointed as the receiver in this action  
8 to take possession, custody, control and to manage and operate Tarzana Plaza Condominiums  
9 Association (the "Association"), a California nonprofit mutual benefit corporation and any and all  
10 real and personal property belonging to the Association, including without limitation the 101-unit  
11 condominium development located at 18530 Hatteras Street, Tarzana, County of Los Angeles,  
12 California (the "Property"). The Receiver shall execute a receiver's oath and post a bond from an  
13 insurer in the sum of \$5,000.00, conditioned upon the faithful performance of his duties as receiver  
14 herein. The oath and bond are to be filed in Department A no later than thirty-days following his  
15 appointment.

16 2. The Receiver shall have all power and authority of a receiver provided by law,  
17 including the following powers and responsibilities:

18 a. The Receiver shall be authorized and empowered to operate, manage,  
19 control, conduct, care for, preserve and maintain the Property. In this regard, the Receiver shall be  
20 authorized to change the locks on the doors providing access to the common areas, so long as this  
21 does not interfere with any homeowners' access to its separate property, and to do all things which  
22 he deems necessary to protect the Property.

23 b. The Receiver shall be authorized to take possession of the Property and  
24 seize, manage and control the Property, whether in the possession of current property management  
25 company J&N Realty, Inc. ("J&N"), its agents, officers, directors, and/or employees or any other  
26 person or entity, so long as this does not interfere with any homeowners' access to its separate  
27 property.

28 c. The Receiver shall further be authorized to take possession of and collect

1 any accounts, chattel paper and general intangibles of every kind hereafter arising out of the  
2 Property and take possession of all the books and records relating to the foregoing, wherever  
3 located, as the Receiver deems necessary for the proper administration of the Property.

4 d. The Receiver shall be authorized and empowered to enter, gain access, take  
5 possession of, and manage all Association accounts wherever located pending discharge, including  
6 the power to demand any and all records from the banks holding present and past accounts.

7 e. The Receiver shall be authorized and empowered to take control of any and  
8 all debit, credit and ATM cards issued under any Association bank account.

9 f. The Receiver shall preserve and protect the assets, tax records, books and  
10 records where located while he acts to operate the affairs of the Association.

11 g. The Receiver shall be authorized to review all Accounts of the Association  
12 for all expenditures and collection since 2006 to present. Also, the Receiver shall be authorized to  
13 review the current active account statements, and materials prepared by any property manager,  
14 accountant or other professional with respect to current or past property management.

15 h. The Receiver is authorized and empowered to execute and prepare all  
16 documents and to perform all acts, either in the name of the Association, as applicable, or in the  
17 Receiver's own name, which are necessary or incidental to preserving, protecting, managing  
18 and/or controlling the Property of the receivership estate while the Receiver operates the business  
19 of the Association. In particular, the Receiver shall have the authority without limitation to  
20 immediately cancel, extend, modify or enter into any existing or new contracts or leases necessary  
21 to operate the Property.

22 i. The Receiver is authorized and empowered to demand, collect and receive  
23 all monies, funds and payments arising from or in connection with any sale and/or lease of the  
24 assets of the Association, as well as homeowners' dues, assessments and other fees from  
25 Association members, including but not limited to, fees paid directly to J&N.

26 j. The Receiver may take any and all steps necessary to receive, collect and  
27 review all mail addressed to the Association, including but not limited to, mail addressed to J&N  
28 on behalf of the Association, mail received at any address by any homeowner or board member on

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1 behalf of the Association, or any post office boxes held in the name of the Association, and the  
2 Receiver is authorized to instruct the U.S. Postmaster to re-route, hold and/or release said mail to  
3 said Receiver.

4 k. The Receiver may take possession of all bank accounts and safe deposit  
5 boxes of the Association and accounts as they pertain to the assets, wherever located, and receive  
6 possession of any money on deposit in said bank accounts. The Receiver shall also have the  
7 authority to close any account(s) that the Receiver deems necessary for operation or management  
8 of the Property. Institutions that have provided banking services to the Association are instructed  
9 to assist the Receiver by providing records that he requests. These institutions may charge their  
10 ordinary rates for providing this service.

11 l. The Receiver is empowered to establish bank accounts at any bank the  
12 Receiver deems appropriate for the deposit of monies and funds collected and received in  
13 connection with his management of the receivership estate.

14 m. To the extent feasible, the Receiver shall, within thirty (30) days of his  
15 qualification hereunder, <sup>and serve</sup> file in this action an inventory of all property of which Receiver shall have  
16 taken possession pursuant to this Order and <sup>and serve</sup> file monthly accountings thereafter.

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17 n. The Receiver, or any party to this action, may from time to time, and on due  
18 notice to all parties, make application to this Court for further orders instructing the Receiver.

19 o. The Receiver is authorized to institute ancillary proceedings in this state or  
20 other states as is necessary to obtain possession and control of all Property of the Association and  
21 the Receiver may engage the services of counsel with further court order. The Receiver may pay  
22 for such services from the funds of the Association. The Receiver may hire the Association's  
23 counsel services with further court order to institute such proceedings in this state or other states  
24 as is necessary to obtain possession and control of the Association's Property.

25 p. The Receiver is empowered to serve subpoenas when necessary with court  
26 approval.

27 q. The Receiver has the authority to assess all homeowners to pay for any and  
28 all health and safety repairs.

- 1           r.       The Receiver has the authority to take any and all legal actions or remedies  
2 to make sure that the homeowners pay their monthly homeowners dues or assessments.
- 3           s.       The Receiver is authorized to secure financing for the Property, subject to  
4 final Court approval and confirmation of any loans secured by the Receiver related to the Property.
- 5           3.       The Receiver shall also be entitled to perform the following:
- 6           a.       Hire professionals, including accountants, paralegals, property managers  
7 and attorneys to aid and counsel the Receiver in the performance of its duties;
- 8           b.       Hire contractors to evaluate and make repairs to the Property;
- 9           c.       Pay the fees and costs of any professionals retained by the Receiver to aid  
10 him in the performance of his duties.
- 11           d.       Pay such other and ordinary expenses deemed appropriate by the Receiver  
12 to carry out the Receiver's duties as specified herein;
- 13           e.       Pay the Receiver's fees from the funds of the receivership estate; and
- 14           f.       Use any federal tax payer identification number(s) or apply for a new tax  
15 payer number relating to the Association for any lawful purpose and prepare tax returns if required.
- 16           4.       Monthly accounting and payment of the Receiver's income, expenses and fees:
- 17           a.       The Receiver shall each month prepare and serve on the parties, but not file,  
18 an accounting of revenues and expenses incurred in the administration of the receivership  
19 Accounts, including the Receiver's fees and expenses.
- 20           b.       The Receiver may pay the Receiver's own fees, fees of his agents, and  
21 expenses by any of the following procedures:
- 22           i.       By serving on all parties a notice of intent to pay for which no  
23 objection is served onto the Receiver within ten (10) days of the date the notice is served;
- 24           ii.       By serving and filing a request for interim payment, which the Court  
25 approves;
- 26           iii.       By obtaining and filing an agreement among all the parties  
27 approving the payment, which the Court then approves;
- 28           iv.       The Receiver shall not reimburse the Receiver for the Receiver's

1 general office administration expenses or overhead without Court approval. These expenses  
2 include, for example, office supplies and taxes.

3 5. Receiver's final report and discharge:

4 a. Motion required. Discharge of the Receiver shall require a Court order upon  
5 noticed motion for approval of the Receiver's final report and accounting and exoneration of the  
6 Receiver's bond.

7 b. Time. Not later than sixty (60) days after the receivership terminates, the  
8 Receiver shall file, serve and obtain a hearing date on a motion for discharge of the Receiver.

9 c. Notice. The Receiver shall give notice to all persons of whom the Receiver  
10 is aware who have potential claims against the receivership property.

11 d. Contents of Motion. The motion to approve the final report and account and  
12 for discharge of the receiver shall contain the following:

13 i. Declaration or Declarations. (1) stating what was done during the  
14 receivership; (2) certifying the accuracy of the final accounting, and the basis for said accounting;  
15 (3) stating the termination of the receivership (such as reinstatement); and (4) stating the basis for  
16 an order for the distribution of any surplus or payment of any deficit.

17 ii. Accounting Summary. A summary of the receivership accounting,  
18 which shall include: (1) the total revenues received; (2) the total expenditures identified and  
19 enumerated by major categories; (3) the net amount of any surplus or deficit; and (4) evidence of  
20 necessary supporting facts.

21 6. Bankruptcy; Debtor's Duty to Give Notice. If any party files a bankruptcy case  
22 during the receivership, the Debtor shall give notice of the bankruptcy to the Court, to all parties,  
23 and to the Receiver three (3) days after the day of which Debtor receives notice of the bankruptcy.

24 7. Bankruptcy; Receiver's Duties. If the Receiver receives notice that a bankruptcy  
25 has been filed and part of the bankruptcy estate includes property that is the subject of this order,  
26 the Receiver shall have the following duties:

27 a. Turn over property if no relief from the stay will be sought. The Receiver  
28 shall immediately contact the party who obtained appointment of the Receiver, and determine



1 whether that party intends to move in the bankruptcy court for an order for: (1) relief from the  
2 automatic stay; and (2) relief from the Receiver's obligation to turn over the property (11 U.S.C.  
3 § 542). If the party has no intention to make such a motion, the Receiver shall immediately turn  
4 over the property to the appropriate entity, either the trustee in bankruptcy if one has been  
5 appointed, or if not, then to the debtor-in-possession, and otherwise comply with 11 U.S.C. § 543.

6           b.       Remain in possession pending resolution. If the party who obtained the  
7 receivership intends to seek relief immediately from both the automatic stay and the Receiver's  
8 obligation to turn over the property, the Receiver may remain in possession and preserve the  
9 Property pending the ruling on those motions (11 U.S.C. § 543(a)). The Receiver's authority to  
10 preserve the Property shall continue as follows:

- 11                   i.       The Receiver may continue to collect homeowner dues; and
- 12                   ii.       The Receiver may make only those disbursements necessary to  
13 preserve and protect any and all accounts of the Association.

14           c.       Turn over property if no motion for relief is filed within fifteen (15) days  
15 after notice of the bankruptcy. If the party who obtained the receivership fails to file a motion  
16 within fifteen (15) court days after his or her receipt of notice of the bankruptcy filing, then the  
17 Receiver shall immediately turn over the property to the appropriate entity either to the trustee in  
18 bankruptcy if one has been appointed or, if not, to the debtor in possession and otherwise comply  
19 with 11 U.S.C. § 543.

20           d.       The Receiver may petition the Court to retain legal counsel to assist the  
21 Receiver with issues arising out of the bankruptcy proceedings.

22                                   **ORDER TO COMPLY WITH RECEIVER**

23           IT IS FURTHER ORDERED that during the pendency of this action, J&N and any and all  
24 parties, including their respective agents, servants, directors, assignees, successors,  
25 representatives, employees and all persons or entities acting under, or in connection with, them or  
26 for them, are required to cooperate with the Receiver by providing documents, account records,  
27 statements, ledgers, check books, check book registers, and any and all other documents necessary  
28 for the Receiver to manage the affairs of the receivership estate.

1 IT IS FURTHER ORDERED that J&N, and all parties, and each of them, and their  
2 respective officers, directors, shareholders, general partners, limited partners, members, agents,  
3 property managers, employees, assignees, successors, representatives, and all persons acting  
4 under, in concert with, or for them, all other persons with actual or constructive knowledge of this  
5 order, and each of them, shall do as follows:

6 1. Turnover of Assets. Shall turnover to the Receiver the possession and  
7 management of the Property and other items of the Association.

8 2. Turnover of Licenses, Permits, and Taxpayer ID Number. Shall turnover to the  
9 Receiver original and copies of all documents which pertain to all licenses, permits, or  
10 government approvals relating to the Property and shall immediately advise the Receiver of their  
11 Federal Taxpayer Identification Number used in connection with the operation of the Association  
12 and Property.

13 3. Notification of Insurance. Shall immediately advise the Receiver as to the nature  
14 and extent of insurance coverage for the Property or its operations. J&N and the Board are  
15 prohibited from canceling, reducing or modifying any and all insurance coverage currently in  
16 existence with respect to the Property and its operations. The Receiver shall determine upon  
17 taking possession of the business whether in the Receiver's judgment there is sufficient  
18 insurance to coverage. With respect to any insurance coverage, the Receiver shall be in  
19 possession of the Property. If sufficient insurance coverage does not exist, the Receiver shall  
20 immediately notify the parties to this lawsuit and shall have thirty (30) calendar days to procure  
21 sufficient property and casualty, all-risk and liability insurance on the Property (excluding  
22 earthquake and flood insurance); provide, however, that if the Receiver does not have sufficient  
23 funds to do so the Receiver shall seek instructions from the Court with regards to whether  
24 insurance shall be obtained and how it is to be paid for. If consistent with existing law, the  
25 Receiver shall not be responsible for claims arising from the lack of procurement of, or inability  
26 to obtain, insurance.

27 4. Agreements. Shall turn over to the Receiver copies or originals of all lease,  
28 licenses, or other agreements of any kind whatsoever, whether currently in effect or lapsed,

Eandi Fitzpatrick

1 which relate or relate to the Association and the Property.

2 5. Monies. Shall turn over to the Receiver all monies or funds of any type in the  
3 account or accounts of defendants or its agents relating to the Property or the Association.

4 6. Turnover of Records and Documents from 2006 until Present. Shall turn over to  
5 the Receiver all keys, leases, books, records, books of account, ledgers, audit reports, operating  
6 statement, budgets, real estate tax bills, and all other business records relating to its business,  
7 wherever located, and in whatever mode maintained, including information contained on  
8 computers and any and all software related thereto as well as all banking records, statements and  
9 cancelled checks.

10 7. Shall assist the Receiver to obtain any bank records that were unable to be  
11 producer.

12 **ORDER ENJOINING INTERFERENCE WITH RECEIVER**

13 IT IS FURTHER ORDERED THAT J&N, the Association, any and all homeowners and  
14 California association of homeowners, and the parties herein, and each of them and their  
15 respective officers, directors, shareholders, general partners, limited partners, members, agents,  
16 property managers, employees, assignees, successors, representatives, homeowners and all  
17 persons action under, in concert with, or for them, and all other persons with actual or  
18 constructive knowledge of this order, and each of them, shall not:

19 1. Commit Waste. Commit or permit any waste of the Property or any part thereof,  
20 or suffer or commit or permit any act in violation of law, or remove, transfer, encumber or  
21 otherwise dispose of any of the Property or any part thereof, or any fixtures thereon.

22 2. Collect Accounts Receivable. Demand, collect, receive, discount, or in any other  
23 way divert or use of any of the accounts receivable (this includes monthly dues and special  
24 assessments) or other times included in the Property or the receivership estate.

25 3. Interfere with Receiver. Directly or indirectly interfere in any manner with the  
26 discharge of the Receiver's duties under this Order to the Receiver's possession, preservation  
27 and maintenance of the Property or related litigation (provided that nothing in this order prohibits  
28 or restrains defendants from petitioning the court with respect to any act or omission undertaken

1 or threatened by the Receiver), and shall not:

2 a. Interfere with the Receiver's collection of accounts receivable (this  
3 includes monthly dues and special assessments) of the receivership estate.

4 b. Dissipate, remove or secrete any inventor included with the Property,  
5 including, but not limited to: (i) contacting any Homeowners within the Property or the  
6 receivership estate for any purposes whatsoever; (ii) demanding payment from any Homeowner  
7 of any account receivable included with the Property or the receivership estate; (iii) cashing any  
8 check or other instrument used in paying any accounts receivable included within the Property or  
9 the receivership estate; (iv) removing any funds from any bank account located at any financial  
10 institution which constitutes collection of accounts receivable included within the Property or the  
11 receivership estate; and (v) refusing to allow or prohibiting, either direct or indirectly, the  
12 Receiver's access to all books and records.

13 c. Interfere, hinder, or molest in any way whatsoever, the Receiver in the  
14 performance of the Receiver's duties herein described or in relation to the receivership estate or  
15 the Receiver's protection of the Property or the receivership estate, including without limitation,  
16 conducting any recall elections without the Receiver's consent or further order of this Court.

17 4. Transfer or Encumber the Property Transfer or Encumber the Property. Expend,  
18 disburse, transfer, assign, sell, convey, device, pledge, mortgage, create a security interest in,  
19 encumber, hypothecate, conceal or in any manner whatsoever deal in or dispose of books and  
20 records, or the whole or any part of the Property or the receivership estate, including, but not  
21 limited to, accounts receivable to the extent included therein.

22 5. Impair Preservation of Association's Interest. Do any act which will, or which  
23 will tend to, impair, defeat, divert, prevent or prejudice the preservation of the Property or the  
24 receivership estate, including accounts receivable to the extent included therein, or the  
25 preservation of the Plaintiffs' interest in the Property or the receivership estate.

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FURTHER ORDERS

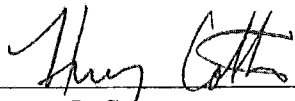
① Receiver will change all locks to the common areas, including without limitation, the party room and the computer room. *AKC*

② Receiver shall <sup>forthwith</sup> remove all copies of the complaint in this action that are posted at the property, including without limitation, the party room and glass casing above the mail boxes. *AKC*

This Order shall remain in full force and effect until further order of this Court.

SO ORDERED.

DATED: May 17, 2018

  
\_\_\_\_\_  
Hon. Huey P. Cotton  
Superior Court Judge

# EXHIBIT B

# COPY

1 Byron Z. Moldo (SBN 109652)  
 2 b moldo@ecjlaw.com  
 3 **ERVIN COHEN & JESSUP LLP**  
 4 9401 Wilshire Boulevard, Ninth Floor  
 5 Beverly Hills, California 90212-2974  
 6 Telephone (310) 273-6333  
 7 Facsimile (310) 859-2325

ORIGINAL FILED  
 Northwest District

SEP 25 2018

LOS ANGELES  
 SUPERIOR COURT

RECEIVED

SEP 12 2018

L.A.S.C. - Northwest

8 Attorneys for Stephen J. Donell, State Court Receiver

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

ERVIN COHEN & JESSUP LLP

11 TARZANA PLAZA CONDOMINIUMS  
 12 ASSOCIATION, a California nonprofit  
 13 mutual benefit corporation,

Plaintiff,

v.

15 EUGENE SAAL, an individual; RUBICELIA  
 16 SCHULTZ, an individual; JUDY WEISS, an  
 17 individual; PASCAL BRENNINKMEIJER, an  
 18 individual; and DOES 1-25, inclusive,

Defendant.

Case No. LC106595

ORDER AUTHORIZING RECEIVER TO  
 ATTEMPT TO RECOVER FUNDS

DATE: August 30, 2018  
 TIME: 1:30 p.m.  
 DEPT: A

The Hon. Huey P. Cotton, Dept. A

Complaint Filed: December 14, 2017  
 Discovery Cutoff: Unknown  
 Motion Cutoff: Unknown  
 Trial Date: Unknown

19 On August 30, 2018, at 1:30 p.m., the Court conducted a continued telephonic status  
 20 conference. Appearances were made by the following attorneys and parties: Stephen J. Donell,  
 21 State Court Receiver ("Receiver"); Byron Z. Moldo, Esq., Ervin Cohen & Jessup LLP ("ECJ"),  
 22 general counsel for the Receiver; Robb Strom, special counsel for the Receiver; defendant Eugene  
 23 Saal; Alan Broidy, Esq., counsel for defendant Rubicelia Schultz; Matthew J. Eandi, Esq., Eandi  
 24 Fitzpatrick LLP, attorneys for plaintiff Tarzana Plaza Condominiums Association ("Association").

25 The Court, having read and considered the proposed Stipulation Authorizing Receiver to  
 26 Commence Litigation ("Stipulation"), and after hearing argument, rules as follows:

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1. IT IS HEREBY ORDERED that the Receiver is authorized to attempt to recover funds for the benefit of the Association from anyone or any entity against whom the Receiver believes a claim exists.

2. IT IS FURTHER ORDERED that the ECJ is authorized, on the Receiver's behalf, to attempt to recover funds for the benefit of the Association, but is not authorized to file any lawsuits to attempt to recover funds unless specifically authorized by this Court in a subsequent order.

3. IT IS FURTHER ORDERED that any proposed settlement to recover funds for the benefit of the Association is subject to the approval of this Court.

DATED: September 25, 2018

SEP 25 2018



HUEY P. COTTON  
Judge of the Superior Court





ERVIN COHEN & JESSUP LLP

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 9401 Wilshire Boulevard, Ninth Floor, Beverly Hills, CA 90212-2974.

On September 11, 2018, I served true copies of the following document(s) described as **[PROPOSED] ORDER AUTHORIZING RECEIVER TO ATTEMPT TO RECOVER FUNDS** on the interested parties in this action as follows:


**SEE ATTACHED SERVICE LIST**

**X BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Ervin Cohen & Jessup LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

**X BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused the document(s) to be sent from e-mail address lpekrul@ecjlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 11, 2018, at Beverly Hills, California.

  
\_\_\_\_\_  
Lore Pekrul

SERVICE LIST

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**Attorneys for Plaintiff Tarzana Plaza Homeowners Association**

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 E-mail: [meandi@effirm.com](mailto:meandi@effirm.com)

**Defendant in Pro Per Eugene Saal**

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 E-mail: [erobertsaal@yahoo.com](mailto:erobertsaal@yahoo.com)

**Attorneys for Defendant Rubicelia Schultz**

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 E-mail: [alan@broidvlaw.com](mailto:alan@broidvlaw.com)

**Stephen J. Donell, State Court Receiver**

Stephen J. Donell, State Court Receiver  
 12121 Wilshire Blvd., Ste. 1120  
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 Tel. 310.207.8481  
 Fax: 310.207.3483  
 E-mail: [Steve.Donell@FedReceiver.com](mailto:Steve.Donell@FedReceiver.com)

**Special Counsel to Stephen J. Donell, State Court Receiver**

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 STROM & ASSOCIATES  
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 Fax Number: (310) 806-4179  
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**CC&R Counsel**

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 Woodland Hills, CA 91367-6565  
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 Fax: 818.905.6372  
 E-mail: [rdhillshafer@lhclawyers.net](mailto:rdhillshafer@lhclawyers.net)

# EXHIBIT C

## **Teresa Castelli**

---

**From:** Teresa Castelli  
**Sent:** Wednesday, December 12, 2018 8:39 AM  
**To:** 'condolawyr@aol.com'; 'alan@broidylaw.com'; 'pbrenninkmeyer@yahoo.com';  
'jaweiss414@gmail.com'; 'tascah@scbglobal.net'; 'nikita4kj@yahoo.com';  
'erobertsaal@yahoo.com'; 'dbkldy@aol.com'  
**Cc:** Byron Moldo  
**Subject:** Tarzana Plaza Condominiums Association v Saal, et al., Case No. LC106595 - EX PARTE NOTICE

### **EX PARTE NOTICE**

On Thursday, 13 December 2018, the Receiver will file an Ex Parte Motion to Obtain Authority to Commence Litigation. The hearing will take place at 8:30 a.m. in Department A of the Los Angeles County Superior Court – Van Nuys Division, 6230 Sylmar Avenue, Van Nuys, California. Please let us know if you intend to oppose the Motion.

---

**Teresa M. Castelli, ACP, CAS**

Paralegal

ERVIN COHEN & JESSUP LLP

9401 Wilshire Boulevard, 9th Floor | Beverly Hills, CA 90212-2974

(310) 281-6361 (t) | (310) 859-2325 (f)

www.ecjlaw.com | tcastelli@ecjlaw.com

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## **Teresa Castelli**

---

**From:** Teresa Castelli  
**Sent:** Wednesday, December 12, 2018 9:45 AM  
**To:** 'tascah@sbcglobal.net'  
**Subject:** FW: Tarzana Plaza Condominiums Association v Saal, et al., Case No. LC106595 - EX PARTE NOTICE

### **EX PARTE NOTICE**

On Thursday, 13 December 2018, the Receiver will file an Ex Parte Motion to Obtain Authority to Commence Litigation. The hearing will take place at 8:30 a.m. in Department A of the Los Angeles County Superior Court – Van Nuys Division, 6230 Sylmar Avenue, Van Nuys, California. Please let us know if you intend to oppose the Motion.

---

**Teresa M. Castelli, ACP, CAS**

Paralegal

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