

Federal Court Denies SEC's TRO Motion Against Sunwest Management, Inc.

March 2, 2009

Last Friday evening, attorneys for Sunwest Management, Inc., were notified by the Securities and Exchange Commission (SEC) of its intention to proceed with charges of fraud against Sunwest Management, Inc, Jon Harder, and certain closely affiliated entities.

Today, the SEC sought a motion in Federal Court to freeze assets and appoint a receiver to oversee Sunwest and related entities. Both requests were denied by the court. Sunwest welcomes serious discussions with the SEC about a form of cooperative receivership that would allow the current Sunwest restructuring to continue.

“The judge denied the temporary restraining order motion in its entirety including denial of the appointment of a receiver,” said Stephen English, special counsel for Jon Harder. “We see this as a big win for the restructuring work at Sunwest.”

The current situation involving Sunwest Management, its affiliates, investors, and creditors is very complex. Through former CEO Jon Harder's Chapter 11 bankruptcy filing, all of these groups have come to the table in a broad-based and collaborative effort to preserve the value of assets and return money to creditors and investors. The key concern for all parties is to ensure that the many residents who call Sunwest-managed communities home continue to receive quality care and services.

In addition to naming Sunwest, certain related entities, and Jon Harder as defendants, the motion names several relief defendants who are not accused of any wrongdoing but who are alleged to have received funds tainted by the alleged wrongdoing. Among these defendants are Sunwest Management's Chief Operating Officer Darryl Fisher and Executive Vice President Wallace Gutzler, and the Chief Restructuring Officer Clyde Hamstreet, and his firm, Hamstreet & Associates.

“Our first goal is to bring all of the assets and cash under the jurisdiction of the United States Bankruptcy Court, establishing a process that ensures order, transparency and fairness,” said English, who has been working with representatives of the unsecured creditors and tenant-in-common investors in Jon Harder's bankruptcy. “Second, two federal court judges are serving as mediators in the case and have already helped forge the first step in a global solution supported by those same committees.”

"We are pleased with the ruling from the court. Freezing assets and bringing in a liquidating receiver at this stage of the process would threaten the company's ability to care for residents and pay employees," said Fisher. "We're trying to find solutions that benefit everyone and we're making significant progress. We hope that the SEC can join in that effort. It would be a mistake to change course at this juncture."

Sunwest Management, Inc. engaged Clyde Hamstreet in late November 2008 to serve as Chief Restructuring Officer, a new position. Mr. Hamstreet is leading a restructuring effort for the senior housing company in an effort to preserve value, improve earnings, and help Sunwest meet its financial obligations to creditors and investors.

For more information on the Sunwest Management, Inc restructuring, please see the company's website: www.sunwestmanagement.com.