

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DANIEL S. NEWMAN, as a Receiver for
Founding Partners Capital Management
Company; Founding Partners Stable-
Value Fund, L.P.; Founding Partners
Stable-Value Fund, II, L.P.;
Founding Partners Global Fund, Ltd.,
and Founding Partners Hybrid-Value
Fund, L.P.,

Plaintiff,

vs.

Case No. 2:09-cv-445-FtM-29SPC

SUN CAPITAL, INC. a Florida
corporation; SUN CAPITAL HEALTHCARE,
INC., a Florida corporation; HLP
PROPERTIES OF PORT ARTHUR, LLC, a
Texas limited liability company,

Defendants.

ORDER

This matter comes before the Court on defendants' Emergency Motion to Stay Proceedings During Settlement Negotiations (Doc. #196) filed on June 12, 2010. The Receiver filed a Notice of Intent to File Memorandum in Opposition (Doc. #197) on June 14, 2010.

Defendants stated that the Receiver has not agreed to the stay for any length of time and otherwise takes no position on the requested relief without formal discovery. (Doc. #196, ¶ 23.) The Receiver describes this as false because the Receiver does in fact object.


Defendants seek to stay all proceedings to allow the parties to pursue settlement with the majority of investors in Founding Partners Stable-Value Fund, L.P. The motion is sought on an emergency basis as a response to the amended complaint is due by June 21, 2010, and 61 subpoenas were recently served requiring compliance by June 15, 2010.

The emergency basis is primarily with regard to the subpoenas. Accordingly, it is now

ORDERED:

Defendants' Emergency Motion to Stay Proceedings During Settlement Negotiations (Doc. #196) is **temporarily granted** to the extent that compliance with the subpoenas and a response to the Amended Complaint are **stayed** pending the filing of a response to the Emergency Motion within the normal **FOURTEEN (14) DAYS** permitted under the Local Rules.

DONE AND ORDERED at Fort Myers, Florida, this 14th day of June, 2010.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of record

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CASE NO. 2:09-CV-445-FtM-99SPC
Proceeding Ancillary to 2:09-cv-229-FtM-29SPC

<p>DANIEL S. NEWMAN, as Receiver for Founding Partners Capital Management Company; Founding Partners Stable-Value Fund, L.P.; Founding Partners Stable-Value Fund II, L.P.; Founding Partners Global Fund, Ltd., and Founding Partners Hybrid-Value Fund, L.P.,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>SUN CAPITAL, INC., a Florida corporation, SUN CAPITAL HEALTHCARE, INC., a Florida corporation, and HLP PROPERTIES OF PORT ARTHUR, LLC, a Texas limited liability company, LH Acquisition, LLC, a Texas limited liability company,</p> <p style="text-align: center;">Defendants.</p> <p style="text-align: right;">/</p>	
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**RECEIVER'S NOTICE OF INTENT TO FILE MEMORANDUM IN
OPPOSITION TO DEFENDANTS' EMERGENCY MOTION TO STAY
PROCEEDINGS DURING SETTLEMENT NEGOTIATIONS**

Plaintiff, DANIEL S. NEWMAN, solely in his capacity as duly appointed Receiver ("Receiver") for Founding Partners Capital Management Company; Founding Partners Stable-Value Fund, L.P.; Founding Partners Stable-Value Fund II, L.P.; Founding Partners Global Fund, Ltd.; and Founding Partners Hybrid-Value Fund, L.P. ("Receivership Entities"), by and through undersigned counsel, respectfully submits his Notice of Intent to File Memorandum in Opposition to Defendants' Emergency Motion

for a Stay Proceedings During Settlement Negotiations (“Motion to Stay”), and states as follows:

1. On June 12, 2010, a Saturday, Defendants filed their Motion to Stay (Doc. No. 196) purportedly on an emergency basis. Defendants argued that a stay must be entered by tomorrow morning (Doc. No. 196 at 14), even though the purported settlement discussions upon which the Motion is based have been going on in secret for the previous four and a half months (Doc No. 196 ¶ 8), and even though Defendants never sought an enlargement of time to respond to the discovery requests and pleading which they contend created the alleged “emergency.”

2. Further, the Defendants falsely state that the Receiver “took no position” on the Motion. (Doc. No. 196 at 17). In fact, the first time the Receiver was notified of the existence of the purported settlement discussions or that Defendants were even considering seeking any kind of stay was this past Friday afternoon. At that time, the Receiver requested certain information of Defendants, which Defendants have not provided and have not agreed to provide.

3. The purpose of this Notice is to advise the Court that the Receiver objects to the Motion and intends to file opposition papers, but, having first been served with the Motion over the weekend, the Receiver needs time to do so.

4. The Receiver respectfully submits that no “emergency” exists.

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Jonathan Etra
Jonathan Etra, Esq.

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