

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

Case No. 2:09-cv-229-FtM-29DNF

FOUNDING PARTNERS CAPITAL MANAGEMENT
CO., and WILLIAM L. GUNLICKS,

Defendants,

FOUNDING PARTNERS STABLE-VALUE FUND,
LP, FOUNDING PARTNERS STABLE-VALUE
FUND II, LP, FOUNDING PARTNERS
GLOBAL FUND, LTD., and FOUNDING
PARTNERS HYBRID-VALUE FUND, LP,

Relief Defendants.

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.,

Plaintiff,

vs.

Case No. 2:09-cv-445-FtM-99SPC

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,

Defendants.

ORDER

This matter comes before the Court on the Receiver's Unopposed Emergency Motion to Continue Preliminary Injunction Oral Argument, and for Expedited Discovery and Briefing Schedule, While TRO Remains in Effect (Doc. #133), filed on July 28, 2009. The Court had entered an Opinion and Order (Doc. #130) and a Temporary Restraining Order (Doc. #131), at the request of Sun Capital Healthcare, Inc. and Sun Capital, Inc., on July 24, 2009.

The Court fully agrees with the parties that a continuance of the hearing on the preliminary injunction, continuation of the Temporary Restraining Order, expedited discovery, and an expedited briefing schedule make good sense. The Court reserves judgment as to whether an evidentiary hearing will be required. Accordingly, the Court will grant the motion as set forth below.

It seems apparent to the Court that the matters involving the Temporary Restraining Order and preliminary injunction should have been filed in Newman v. Sun Capital, Inc., Case No. 2:09-cv-445-FTM-99SPC. The issues raised, and those anticipated to be raised, relate to the dispute between the Receiver and the Sun Capital defendants set forth in that Complaint. Therefore, the Court will instruct the Clerk of Court to transfer the pertinent filings to the new case filed by the Receiver, and will direct the parties to utilize that case number for future filings.

Accordingly, it is now

ORDERED:

1. Receiver's Unopposed Emergency Motion to Continue Preliminary Injunction Oral Argument, and for Expedited Discovery and Briefing Schedule, While TRO Remains in Effect (Doc. #133) is **GRANTED** as set forth below.

2. The oral argument on the motion for preliminary injunction scheduled for Thursday, July 30, 2009 at 10:00 a.m. is **CANCELED**, and will be rescheduled by separate notice.

3. The parties in Newman v. Sun Capital, Inc., Case No. 2:09-cv-445-FTM-99SPC, shall engage in expedited discovery related to the issues involved in the request for preliminary injunction, which discovery shall be completed on or before **SEPTEMBER 30, 2009**.

4. The Receiver may file a legal memorandum in response to the request for a preliminary injunction on or before **OCTOBER 16, 2009**; the Sun Capital defendants may file a reply on or before **OCTOBER 30, 2009**. Both filings shall discuss the need for oral argument and/or an evidentiary hearing. In light of this briefing schedule, the Order (Doc. #132, Case No. 2:09-cv-229) granting the Sun Capital defendants leave to file a Reply is **VACATED**.


5. The July 24, 2009 Temporary Restraining Order shall continue in full force and effect until the Court enters an order on the request for a preliminary injunction. During this time period, the existing Transfer Notices delivered by the Receiver to SunTrust Bank, and any similar oral or written instructions, are

STAYED and are to be given no force and effect by SunTrust Bank unless so ordered by this Court. The Receiver and all of his agents and representatives are hereby **ENJOINED and PROHIBITED** from issuing any other Transfer Notices or similar instructions to SunTrust Bank absent an order of the Court.

6. A copy of this Order shall be served upon SunTrust Bank by Sun Capital Healthcare, Inc. or Sun Capital, Inc.

7. The Clerk of the Court shall strike the following filings from Case No. 2:09-cv-229 and file them in Case No. 2:09-cv-445: Docket Numbers 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, and 133. The parties shall use the caption in Case No. 2:09-cv-445 for future filings relating to this matter.

DONE AND ORDERED at Fort Myers, Florida, this 28th day of July, 2009.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of record
Receiver
SunTrust Bank
L. King, Division Manager