

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CASE NO.: 2:09-CV-229-FTM-29SPC

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

FOUNDING PARTNERS CAPITAL MANAGEMENT,
and WILLIAM L. GUNLICKS,

Defendants,

FOUNDING PARTERS 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.

**RECEIVER'S MOTION FOR COURT APPROVAL
TO ASSIGN INTERESTS IN REALTY CAPITAL PARTNERS**

Daniel S. Newman, as Court-appointed receiver (the "Receiver") for Defendant Founding Partners Capital Management Company and the Relief Defendants 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. (collectively, the "Receivership Entities"), respectfully files this Motion for Court Approval to assign its interests ("Interests") in Realty Capital Partners ("RCP"). *The SEC has no objection to the relief sought herein.*

By order dated May 20, 2009, Daniel S. Newman was appointed as the Receiver over the Receivership Entities. The Receivership Order authorizes the Receiver to, among other things:

a) Take immediate possession of all property, assets and estates of every kind of Founding Partners and each of the Founding Partners Relief Defendants, whatsoever and wheresoever located, including but not limited to all offices maintained by Founding Partners and the Founding Partners Relief Defendants, rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of Founding Partners and the Founding Partners Relief Defendants wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order.

[See D.E. 73 at 3].

RCP is a private real estate investment firm headquartered in Dallas, Texas. RCP manages a portfolio of real estate investments. As previously reported, the Receivership Entities invested in RCP, buying interests in several real estate investments across the country. At present, the Receivership Estate still hold interests in two such investments: I-35 Loop 288 (“Loop”) and Argyle 114 (“Argyle”).

The Receivership Entities’ Interests in RCP consist of: (1) a 2.508% interest in Loop, purchased for \$50,000; and (2) a 1.479% interest in Argyle, purchased for \$75,000. To date, the Receivership Estate has not received any distributions for the interest in Argyle but has received \$219,639 in distributions from Loop. Thus, even if the Receiver were to abandon these Interests, the Receiver has already received back approximately \$97,000 more than was originally invested.

As the Court is aware, the Receiver is in the process of winding down and closing the Receivership. These Interests in Loop and Argyle are the Receivership Estate’s last remaining assets. After the assignment of these Interests, if approved by the Court, the Receiver will promptly move to close the Receivership.

Beginning in or about late November 2024, the Receiver engaged in discussions with RCP regarding the potential buy-back of the Interests. The Receiver’s professionals had several

telephone and video conferences with RCP representatives, including RCP's CEO, Blake Lugash.

Mr. Lugash advised the Receiver and his professionals of the following:

- The Interests are non-liquid assets. There is no market for the purchase of the Interests.
- RCP personnel believe Loop has value, but it is unknown how long it will take to monetize that value.
- Two RCP-affiliated individuals are interested in entering an assignment of the Interest in Loop in exchange for \$35,000. This amount is in addition to the \$219,639 the Receivership Estate has already received in distributions from Loop.
- There is no interest from RCP-affiliated individuals (or anyone else, to the Receiver's knowledge) in obtaining the Interest in Argyle, for numerous reasons, foremost of which is that the investment has not done well and is not expected to improve.
- RCP is willing to enter into an assignment of the Interest in Argyle in exchange for \$10 consideration to assist the Receiver in clearing this Interest from its books.

It is the Receiver's and his professionals' opinion that the Interests are highly illiquid, and that the Receiver will not be able to locate a buyer that exceeds the current offers from RCP. The Receiver's professionals did not have success in marketing or selling the Interests. Moreover, while the Receivership Estate's interest in Loop may have value exceeding the \$35,000 that RCP-

affiliated individuals have offered in exchange for an assignment, it could take substantial time for that to occur if it does at all.¹

The Receiver's professionals have informed him that, in view of the foregoing, the approximately \$35,000 that will be paid to the Receivership Estate for the assignment of the Interests in Loop and Argyle is a fair return for the sale of investments of this nature at this time.

CONCLUSION

For the foregoing reasons, the Receiver respectfully requests that the Court enter an order approving the Receiver's assignment of the Interests to RCP-affiliated individuals.

Respectfully submitted,

NELSON MULLINS

Attorneys for Receiver

One Biscayne Tower, 21st Floor

2 South Biscayne Boulevard

Miami, FL 33131

Tel: (305) 373-9400

By: /s/ Christopher Cavallo

Christopher Cavallo, Esq.

Florida Bar No. 0092305

Jonathan Etra, Esq.

Florida Bar No. 0686905

¹ RCP provided the Receiver with an estimated value of approximately \$54,000 to \$127,000 for the interest in Loop if the property is purchased in the future by the state of Texas. But it is unknown if the state will ever purchase the property, and if it does, when that might occur.