

United States District Court, District of Oregon
Case No. 09-cv-6056-HO

SECURITIES AND EXCHANGE COMMISSION, Plaintiff,
v.
SUNWEST MANAGEMENT, INC., CANYON CREEK
DEVELOPMENT, INC., CANYON CREEK FINANCIAL, LLC. and
JOHN M. HARDER, Defendants

**(Proposed) PROOF
OF CLAIM FORM**

DARRYL E. FISHER, J. WALLACE GUTZLER, KRISTIN HARDER,
ENCORE INDEMNITY MANAGEMENT, LLC, SENENET LEASING
COMPANY, FUSE ADVERTISING, INC. KDA CONSTRUCTION,
INC., CLYDE HAMSTREET, and CLYDE A. HAMSTREET &
ASSOCIATES, LLC, Relief Defendants.

INSTRUCTIONS

Michael A. Grassmueck is the Court-appointed Receiver¹ in the above-captioned case. He is responsible for reviewing Proof of Claim Forms, and when appropriate, objecting to Proofs of Claim, and making distributions on account of Allowed Claims. **The purpose of the Proof of Claim Form is to help the Receiver learn who you are, how much you are owed, the reason(s) you have a claim, and how the Receiver can contact you.**

If you believe you are owed money from any of the Sunwest-related entities, Defendants, or Relief Defendants related to the Sunwest enterprise, you must complete a Proof of Claim Form in order to receive a distribution on your Claim. *For each separate obligation owed to you by a Sunwest-related entity or the Defendants or Relief Defendants, please complete a separate Proof of Claim Form.* You may attach them to each other into a single document. The more information you provide, the more quickly and cheaply the Proof of Claim Form can be reviewed. An example of a complete Proof of Claim form may be reviewed on the following website: www._____.

If you previously filed a Bankruptcy Proof of Claim in the Jon Harder chapter 11 bankruptcy case, please attach a copy of it to this Proof of Claim Form and provide any additional information requested below that was not included.

Your completed Proof of Claim Form and supporting documentation (*do not send originals of supporting documentation*) may be submitted to the Receiver by e-mail to _____, or on paper to "Receiver for Sunwest Enterprise, c/o Grassmueck Group, P.O. Box 3649, Portland, OR 97208-5248 **no later than January 15, 2010, in order to be considered timely. Failure to submit a timely Proof of Claim Form may result in you being denied the right to share in distributions under the Distribution Plan.** If transmittal to the Receiver is by email, you will receive an automatic notice of receipt. If you do not receive the notice within 24 hours of submission, please contact _____. If the Receiver has questions about or objections to your Proof of Claim Form, you will be contacted by the Receiver.

¹ Capitalized terms have the same meaning as in the Proposed Distribution Plan on file with the U.S. District Court, and is available for review at the Receiver's website at www._____.

PROOF OF CLAIM

Claimant name: _____

Address: _____

Email: _____

Telephone number: _____

Contact name (including counsel): _____

Address: _____

Email: _____

Telephone number: _____

Check this box if you agree that communications and any objection to your Proof of Claim may be transmitted by the Receiver to you via email at the Contact name above.

Account No. (if any) or other identifying Sunwest number: _____

If a legal action is pending relating to your Claim, please state the date it was commenced, the Court, where it is pending, the Case No., and attach a copy of the complaint:

If a Judgment has been obtained, please state the Date of the Judgment and attach a copy: _____

Amount Claimed: \$ _____
(total as of the date of submittal of the Proof of Claim Form).

Amount received since January 1, 2006 (for any reason): _____

Please check all boxes that apply to you and provide the requested information at the end of this Proof of Claim Form or attach separate sheets:

1. **Administrative Claim.** (For example, new funds paid during the Harder Bankruptcy Case or Receivership Case to pay for debt service, property taxes, operations, or repairs of a Holdco, Divestco or Trustco Property.) Please provide amounts, dates, and any documents that evidence the payments and purpose. Attach additional sheets if necessary.

2. **Investor Claims.**

A. **Tenant In Common.** (For example, payment of money or providing of other value in order to obtain a Tenant in Common interest in a Sunwest-affiliated real estate asset). Please provide the amount of payment or other description of value provided, the date, the name of the Sunwest facility or other related asset, the date and amount of the last payment on account of the Tenant In Common interest, what you assert you are owed, including for example, for

rent or other payments not received, interest, attorney's fees, etc., and any documents that evidence the same.

- B. **Preferred Members.** *(For example, payment of money or providing of other value in order to obtain a Preferred Membership Interest in a Sunwest-affiliated limited liability company).* Please provide amount of payment or other description of value provided, the date, the name of the Sunwest facility or other related asset, the date and amount of the last payment on account of the Preferred Membership Interest, what you assert you are owed, including for example, for investment returns or other payments not received, interest, attorney's fees, etc., and any documents that evidence the same.
- C. **LLC Members or Partners.** *(For example, payment of money or providing of other value in order to obtain a Limited Liability Membership Interest, other than a Preferred Membership Interest, in a Sunwest-affiliated limited liability company.)* Please provide the amount of payment or other description of value provided, the date, the name of the Sunwest facility or other related asset, the date of the last payment on account of the Limited Liability Membership Interest, what you assert you are owed, including for example, for investment returns or other payments not received, interest, attorney's fees, etc., , and any documents that evidence the same.
- D. **Unsecured Note Holder/Non-Institutional.** *(For example, payment of money or providing of other value in exchange for an unsecured promissory note, or for the purchase of a promissory note, in favor of a person or entity not generally in the business of making loans, where the obligor is a Sunwest-affiliated entity or is Harder, Fisher or Gutzler and the loan was in connection with the Sunwest enterprise).* Please provide the amount of payment or other description of the value provided, the date, the name of the obligor on the note, the name of any related Sunwest facility or asset, the date of the last payment on account of the note, and any documents that evidence the same.
- E. **Trade Creditor.** *(For example, an obligation owed to a service or product provider for a Sunwest-related entity on account of unpaid invoices.)* Please provide a description of the services or product provided, the date, the name of Sunwest facility or entity that received the service or product, the date of the last payment on account of the invoice, and any documents that evidence the same.
- F. **Employee.** *(For example, an obligation to an employee of a Sunwest-related entity for unpaid employee services in accordance with the terms of employment.)* Please provide a job title or description, the employer name, the amount owed, the date of the obligation, the date of the last payment on account of employment, and any documents that evidence the same.
- G. **Lender Deficiency Claim.** *(For example, amount owed on a loan to a secured lender in excess of the value of the collateral for the secured loan.)* Please provide the amount of the loan, a description of the collateral, the value of the collateral, the date of the loan, the date and the amount of the last payment on the loan, the date of foreclosure, the foreclosure sale price, and any documents that evidence the same.
- H. **Creditor of Harder, Fisher or Gutzler.** *(For example, an obligation of Harder, Fisher or Gutzler to any person or entity related to the Sunwest enterprise.)* Please provide the amount of the obligation and a description of why it is owed, the date of the obligation, why the obligation is related to the Sunwest enterprise, the name of the Sunwest facility or other asset related to the obligation, the amount and date of the last payment, and any documents that evidence the same.

- I. **Nonconsensual Creditor.** *(For example, an obligation of a Sunwest-related entity, or of Harder, Fisher or Gutzler related to the Sunwest enterprise, that does not arise from a contractual obligation.)* Please describe the facts giving rise to the obligation, the amount of the obligation, the date the obligation arose, and any documents that evidence the same.

- J. **Other.** *(For example, any obligation of any Sunwest-related entity, or of Harder, Fisher, or Gutzler related to the Sunwest enterprise not otherwise categorized above.)* Please explain the nature of the obligation, the facts giving rise to the obligation, the amount owed, the date the obligation arose, and provide any documents evidencing the same.

- K. **Secured Creditors.** *(For example, an obligation of any Sunwest-related entities, or of Harder, Fisher or Gutzler related to the Sunwest enterprise, secured by collateral.)* Please provide the amount owed, the date of the obligation, a description of the collateral, and all documents evidencing the same.

Check box if additional pages are attached.

DATE:

Name (print)

Signature

Name (print)

Signature

The person filing this Claim must sign it. Sign and print name and title, if any, of the Claimant or other person authorized to file this Proof of Claim and state address and telephone number if different from the address above. Attach copy of Power of Attorney, if any.

NOTE: SUBMITTAL OF A KNOWINGLY FALSE CLAIM MAY SUBJECT YOU TO PROSECUTION FOR A CRIME.