



Asset Fund I, LLC and Select Asset Prime Index Fund, LLC (collectively the “Receivership Entities”).

2. Mr. Harr was authorized to have complete and exclusive control, possession and custody of all Receivership assets and Receivership records of Defendants. Receivership Assets and Receivership Records were defined in the Order as “assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the [Receivership Entities] and all entities they own or control . . . and other informational resources of or in possession of the [Receivership Entities] or issued by [Receivership Entities] and in possession of any agent or employee of the [Receivership Entities].”

3. The Receiver has been acting and fulfilling his duties as Receiver since his appointment and has conducted various investigations of the Receivership Entities with the intent to marshal the Receivership assets for the benefit of the Receivership Entities’ investors and creditors. These efforts have included interactions with existing and former employees, reviews of corporate records and discussions with involved third-parties.

## **II. SUMMARY OF THE RELIEF REQUESTED**

4. The assets of the Receivership include funds that will be collected from the sale of various assets as well as the death benefit proceeds from life insurance on Joel David Salinas. The funds will be in excess of \$10,000,000 and may be as much as \$20,000,000. As it is unlikely that distributions of any of these funds will occur in less than a year and could possibly extend to two years, the Receiver desires to invest a substantial portion of the funds collected in investment bonds backed by the full faith and credit of the United States government. This

motion will outline the Receiver's investigation of the alternatives for investment and request approval from the Court to invest the funds as stated.

### **III.** **FACTS**

5. As stated in the Receiver's Preliminary Report (Dkt. 25) filed September 27, 2011, the Receivership estate is likely to include life insurance death proceeds of at least \$15,750,000. That number could go higher if additional insurance policies are determined to be part of the Receivership estate. The Receiver expects to collect most of these funds in the next sixty (60) days, depending on the speed at which the insurance companies act.

6. As well, the Receivership estate includes a number of pieces of real estate and a business to be sold. It will also include the proceeds of approximately 20 loans made by Select Asset Fund I LLC and Select Asset Prime Index Fund LLC. It is unknown at this time exactly how much money will be in the Receivership estate as a result of these activities, but a reasonable estimate is in the range of an additional \$10,000,000.

7. No distributions of these amounts can be made by the Receiver until the claims process has been completed. The Receiver has promptly sought and obtained Court approval of a claims process and claim forms, and the claims process is underway. However, based on experience in these matters, it is unlikely that all of the claims will be submitted, reviewed and approved by the Court in less than a year. The process could take longer depending on a number of factors outside the control of the Receiver, including the speed at which the banks associated with the Receivership Entities provide the historical bank statements needed to complete the financial forensic analysis that is the foundation of the claims process.

8. Based on these facts, it is likely that the Receiver will have a substantial amount of money on deposit for a year or more. Interest rates at Federally insured banks are at historical

lows. The Receiver has investigated alternatives for the investment of the funds that provide the highest rate of return, yet provide for the highest level of safety of the principal. The following chart shows the result of this investigation:

<b>Type of Investment</b>	<b>Range of Investment Yield</b>	<b>Pros/Cons of Principal Safety</b>
Major Bank Money Market	.25% - .30%	Reasonable rates but dependent on the financial strength of the deposit bank.
Major Bank Off Shore Deposit	.20% - .40%	Higher rates but not insured and subject to off-shore laws and issues.
CDARS (money placed in multiple Banks to get full FDIC insurance)	.10% - .18%	Lower rates but fully protected by FDIC insurance; more administrative issues due to multiple deposits.
U.S. Government Agency Bonds	.23% - .43%	Higher rates, not insured but backed by the full faith and credit of the United States

9. It is the conclusion of the Receiver that it is in the best interest of the receivership estate that a substantial portion of the funds collected and to be held by the Receiver be invested in U. S. Government Agency Bonds that affirmatively state that they are backed by the full faith and credit of the United States of America due to the higher interest yields available and the protection of the full faith and credit of the United States government.

#### **IV. AUTHORITIES**

10. Sitting in equity, this Court is a “court of conscience.” *Wilson v. Wall*, 73 U.S. 83, 90 (1867). As such, this Court has the power in equity “to do what is right under the circumstances.” *U.S. v. Durham*, 86 F.3d 70, 73 (5th Cir. 1996).

**V.**  
**CONCLUSION**

11. The Receiver requests that the Court approve his request to invest the Receivership funds as stated in U.S. Government Agency bonds as best determined by the Receiver and his consultant investment advisors.

12. Pursuant to Local Rule CV-7, the Receiver advises the Court that he has conferred with the Plaintiff Securities and Exchange Commission and they consent to the relief requested in this motion. The Defendant entities are all controlled by the Receiver and no notice is required.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that, upon final consideration of this Motion, the Court enter an Order consistent with the foregoing requested relief and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

/s/ Steven A. Harr

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STEVEN A. HARR, RECEIVER

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of October, 2011, a true and correct copy of the foregoing document has been served either via electronic notice as provided by the ECF noticing system, or via United States first class mail, postage prepaid, on the following individuals and or entities:

Timothy S. McCole  
Securities and Exchange Commission  
Fort Worth District Office  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit #18  
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Matt Hennessy | Attorney at Law  
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*/s/ Steven A. Harr*

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Steven A. Harr

