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 8 THOMAS A. SEAMAN

9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**
 11 **SAN JOSE DISTRICT**

12 SECURITIES AND EXCHANGE
 COMMISSION,
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 Plaintiff,
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 vs.
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 16 SMALL BUSINESS CAPITAL CORP.;
 MARK FEATHERS; INVESTORS PRIME
 FUND, LLC; and SBC PORTFOLIO
 17 FUND, LLC,
 18
 Defendants.

Case No. CV12-03237

**ADMINISTRATIVE MOTION FOR ORDER
 SHORTENING TIME ON FIFTH INTERIM
 FEE APPLICATIONS OF RECEIVER AND
 ALLEN MATKINS**

Ctrm: 4 - 5th Floor
 Judge: Hon. Edward J. Davila

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1 Thomas A. Seaman ("Receiver"), the Court-appointed permanent receiver for Small
2 Business Capital Corp. ("SB Capital"), Investors Prime Fund, LLC ("IPF"), SBC Portfolio
3 Fund, LLC ("SPF"), and their subsidiaries and affiliates (collectively, "Receivership Entities"),
4 hereby moves for an order shortening time on the fifth interim fee applications of the Receiver and
5 Allen Matkins ("Applications").

6 The hearing date assigned to the Applications is August 1, 2014. The Applications seek
7 interim approval of fees and costs of the Receiver and Allen Matkins incurred during the period
8 November 1, 2013 through January 31, 2014. At this time, two fee applications are pending and
9 the Receiver and Allen Matkins have only been paid for their work through July 31, 2013, less
10 considerable holdbacks imposed by the Court. The substantial delay in payment puts the Receiver
11 and Allen Matkins in the position of having to subsidize the receivership and ongoing operations
12 of the Receivership Entities for long periods of time. In particular, this imposes a significant
13 financial burden on the Receiver, who must pay the operating expenses of his small company on a
14 monthly basis.

15 Interim fee applications in complex receiverships are approved by courts such that
16 receivers and their professionals are paid on a regular basis, subject to the court's review and
17 consideration of amounts held back at the conclusion of the receivership. Here, the Receiver and
18 Allen Matkins have not been paid for any work performed since July 2013 (a period of more than
19 nine months). Moreover, as of January 31, 2014, the Receiver had incurred \$1,388,014 in fees for
20 the receivership and had been paid only \$700,211.25 (50.4%), with \$687,802.75 remaining
21 unpaid. Allen Matkins had incurred fees of \$875,427.70 and had been paid only \$428,220.38
22 (48.9%), with \$447,207.32 remaining unpaid. The percentages of fees paid goes down
23 substantially if you include fees incurred in February, March, and April 2014.

24 The Court has not held oral argument on any prior fee applications, even when the
25 Receiver and counsel have been present in Court on other motions. Advancing the hearing date
26 should have no impact on the Court's hearing calendar. Accordingly, the Receiver requests an
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1 order advancing the hearing date for the Applications to May 16, 2014 or June 13, 2014,¹ and
2 requests the Court promptly rule on the fourth² and fifth interim fee applications of the Receiver
3 and Allen Matkins.

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5 Dated: May 6, 2014

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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7 By: _____ /s/ Ted Fates

TED FATES
Attorneys for Receiver
Thomas A. Seaman

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Counsel for the Securities and Exchange Commission has advised that he will be out of the
28 office for vacation from May 23 through June 6, 2014.

² The fourth interim fee applications were filed on December 4, 2013. Dkt. Nos. 646 and 647.