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9 Attorneys for Debtor and Debtor in Possession
Heller Ehrman LLP

10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 In re:
14 Heller Ehrman LLP,¹

15
16 Debtor

Case No.: 08-32514

Chapter 11

**DEBTOR'S MOTION TO SELL
STOCKS FREE AND CLEAR OF
LIENS**

B.L.R. 6004-1 Disclosure:²

- * Bank of America, NT&SA, for itself or as agent
- * CitiBank, N.A;
- * 333 Bush Associates NF L.P.
- * Silicon Valley Bank

[No Hearing Date Set]

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22 **TO THE HONORABLE DENNIS MONTALI, THE OFFICIAL COMMITTEE OF**
23 **UNSECURED CREDITORS, THE OFFICE OF THE UNITED STATES TRUSTEE, AND**
24 **THE FOLLOWING SPECIFICALLY NAMED POTENTIAL HOLDERS OF LIENS,**
25 **CLAIMS, ENCUMBRANCES OR INTERESTS IN THE STOCKS -- BANK OF AMERICA,**
26 **NT&SA, FOR ITSELF OR AS AGENT; CITIBANK, N.A; AND 333 BUSH ASSOCIATES NF**
27 **L.P.; SILICON VALLEY BANK, AND OTHER PARTIES REQUESTING NOTICE**
28 **PURSUANT TO BANKRUPTCY RULE 2002:**

¹ The Debtor's address is 333 Bush Street, San Francisco, CA 94104, Federal Tax I.D. No. 94-1217308.

² This is for notice purposes only. It is not intended as an admission that any of the parties listed have valid liens on the assets at issue. The Debtor expressly reserves all rights to contest the validity of any liens asserted against such assets.

1 Heller Ehrman, LLP, formerly known as Heller Ehrman White & McAuliffe LLP, a
2 California limited liability partnership, the debtor and debtor-in-possession in the above-captioned
3 case (the “Debtor”), hereby moves the Court (the “Motion”) for entry of an order approving the
4 Debtor’s sale of publically traded stock in Verizon Communications, Inc. free and clear of liens,
5 claims and interests as more specifically set forth below pursuant to Bankruptcy Code sections
6 363(b) and 363(f)(2) and (f)(4). This Motion is supported by the *Declaration of Peter J. Benvenuti*
7 *in Support of Motion to Sell Stock Free And Clear Of Liens, Claims, Encumbrances and Other*
8 *Interests*, filed and served herewith.

9 In support of this Motion, the Debtor asserts as follows:

10 1. On December 28, 2008 (the “Petition Date”), the Debtor filed a voluntary petition for
11 relief under Chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtor has been
12 operating as a debtor in possession.

13 2. The Debtor, a 118 year old law firm, is currently winding down its business and
14 affairs following the adoption of a Plan of Dissolution by the shareholders of the Debtor’s limited
15 partners in September, 2008. Although the Debtor is no longer engaged in the practice of law, there
16 remain a substantial number of unperformed, yet necessary, tasks relating to winding down the
17 business, maximizing the value of the Debtor’s assets for the benefit of its creditors and equity
18 interest holders, and discharging the Debtor’s obligations to its former clients. Among other things,
19 the winding down of the Debtor’s business includes the collection of a significant amount of
20 accounts receivable and the sale of certain assets.

21 3. By this Motion, Debtor seeks authority to sell 4,639 shares of stock in Verizon
22 Communications, Inc. (the “Verizon Stock” or the “Assets”).

23 4. The Debtor does not need the Assets for any purpose other than to generate cash from
24 them and thus believes that it is in the best interest of the estate and a prudent business decision to
25 sell such assets. The Verizon Stock (Symbol: VZ) is a publicly traded stock and as of March 10,
26 2009, it was trading at \$27.61 per share.

27 5. The Debtor believes that a sale of the Assets is in the best interest of the estate in that
28 the Assets may potentially diminish in value based on current market conditions. Accordingly, a

1 sale of the Assets in the immediate future free and clear of all liens, claims, and interests would
2 provide the highest and best recovery for the estate.

3 6. This Motion is based upon the Memorandum of Points of Authorities and the
4 Declaration of Peter J. Benvenuti filed concurrently herewith, and upon all pleadings and
5 documents on file in this case and upon the argument of counsel which may be presented at any
6 hearing on this Motion.

7 WHEREFORE, the Debtor respectfully requests that the Court enter an order authorizing
8 Debtor to sell the Assets free and clear of all liens, claims and interests of creditors; and granting
9 Debtor such other and further relief as the Court may deem just and proper under the facts and
10 circumstances of this case.

11 Dated: March 12, 2009

PACHULSKI STANG ZIEHL & JONES LLP

12 By /s/ Miriam Khatiblou

13 John D. Fiero (CA Bar No. 136557)
14 Kenneth H. Brown (CA Bar No. 100396)
15 Miriam Khatiblou (CA Bar No. 178584)
16 Attorneys for Debtor and Debtor in
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10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 In re:

13 Heller Ehrman LLP,¹

14 Debtor

Case No.: 08-32514

Chapter 11

**DEBTOR'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF MOTION TO SELL
STOCKS FREE AND CLEAR OF
LIENS**

B.L.R. 6004-1 Disclosure:²

- * Bank of America, NT&SA, for itself or as agent
- * CitiBank, N.A;
- * 333 Bush Associates NF L.P.
- * Silicon Valley Bank

[No Hearing Date Set]

21 **I.**

22 **INTRODUCTION**

23 Heller Ehrman, LLP (the "Debtor") brings this motion seeking authority to sell 4,639 shares
24 of publically traded stock in Verizon Communications, Inc. (the "Verizon Stock" or "Assets"). The
25

26 _____
27 ¹ The Debtor's address is 333 Bush Street, San Francisco, CA 94104, Federal Tax I.D. No. 94-1217308.

28 ² This is for notice purposes only. It is not intended as an admission that any of the parties listed have valid
liens on the assets at issue. The Debtor expressly reserves all rights to contest the validity of any liens
asserted against such assets.

1 Debtor does not utilize the Assets in the ordinary course of its business and believes that it is in the
2 best interest of the estate and a prudent business decision to sell such Assets.

3 **II.**

4 **JURISDICTION AND VENUE**

5 The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This
6 matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding
7 and this Motion is properly in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

8 The statutory basis for the relief sought herein are sections 363(b) & (f) of the Bankruptcy
9 Code (the “Bankruptcy Code”) and Rules 2002, 6004, and 9014 of the Federal Rules of Bankruptcy
10 Procedure.

11 **III.**

12 **STATEMENT OF FACTS**

13 **A. Procedural Background.**

14 On December 28, 2008 (the “Petition Date”), the Debtor filed a voluntary petition for relief
15 under Chapter 11 of the Bankruptcy Code. The Debtor has continued in possession of its property
16 and is operating and managing its business as debtor-in-possession pursuant to Sections 1107(a) and
17 1108 of the Bankruptcy Code.

18 On January 5, 2009, the United States Trustee for this district appointed an official
19 committee of unsecured creditors (the “Committee”).

20 **B. The Debtor’s Current Operations.**

21 The Debtor, a 118 year-old international law firm, is currently winding down its business and
22 affairs following the adoption of a Plan of Dissolution by the shareholders of the Debtor’s limited
23 partners in September, 2008. Although the Debtor is no longer engaged in the practice of law, there
24 remain a substantial number of unperformed, yet necessary, tasks relating to winding down the
25 business, maximizing the value of the Debtor’s assets for the benefit of its creditors and equity
26 interest holders, and discharging the Debtor’s obligations to its former clients. Thus, the Debtor still
27 maintains a workforce of approximately 50 employees (including temporary employees) to provide
28 these necessary services, and incurs routine business expenses (including payroll, employee benefits,

1 office space and equipment, insurance, and costs for other goods and services) as part of the winding
2 down process. Among other things, winding down the Debtor's business includes pursuing the
3 collection of its outstanding accounts receivable, coordinating and managing the transition and
4 securing of client and firm business records, assisting in negotiations with key creditor
5 constituencies, and performing a number of bookkeeping, office and administrative services.

6 **C. Status of Known or Potential Liens, Claims and Encumbrances.**

7 The Debtor has identified four specific parties that do or could conceivably allege a lien,
8 claim, encumbrance or interest in the Assets. They are: Bank of America NT&SA (now known as
9 Bank of America, N.A.), for itself and as agent for CitiBank, N.A.; 333 Bush Associates NF L.P.;
10 and Silicon Valley Bank. These parties' interests in the Assets arise in the following ways. Bank of
11 America and Citibank are alleged secured lenders of the Debtor, the perfection of whose claims are
12 subject to avoidance as discussed in prior pleadings on file with the Court. This debt relates to a
13 loan, as well as to liability for letters of credit issued on account of the Debtor. The Debtor believes
14 that the claims of Bank of America N.A. and CitiBank, N.A. have been fully collateralized with
15 cash. 333 Bush Associates obtained a right to attach order and order for issuance of writ of
16 attachment against the Debtor's personal property in California prior to the Petition Date (whether or
17 not 333 Bush Associates levied upon its attachment with the California Secretary of State is not
18 known at the time of this Motion). Silicon Valley Bank has a UCC-1 Financing Statement of record
19 against one of the professional corporations that make up the Debtor's limited liability partnership;
20 that UCC-1 purports to extend to "all goods and equipment" as well as "fixtures." The Debtor has
21 no current knowledge of any current loan from, or valid lien right of, Silicon Valley Bank. Once
22 again, the Debtor seeks only to sell its own property, not anything belonging to Silicon Valley
23 Bank's named obligor (Heller Ehrman White & McAuliffe, A Professional Corporation). Based
24 upon the foregoing, the Debtor does not believe that any of the foregoing parties has any valid
25 secured claim against the Assets and the Debtor can and does dispute in good faith that any of the
26 alleged liens, claims and encumbrances described above are valid or binding upon the Assets.

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1 **D. The Assets Being Sold**

2 The Debtor holds 4,639 shares of publically traded stock in Verizon Communications, Inc.
3 The Debtor received the Verizon Stock as a distribution on its claim for prepetition unpaid legal fees
4 in the chapter 11 case of Worldcom (which was subsequently acquired by and merged into Verizon).
5 The Debtor believes that it is in the best interest of the estate and a prudent business decision to sell
6 the Verizon Stock. As of March 10, 2009, the Verizon Stock was trading at approximately \$27.61
7 per share, which is approximately \$6.00 less per share than what the stock was selling at in
8 December 2008. Accordingly, the sale of the Assets may generate approximately \$128,082 in
9 proceeds, assuming the Verizon Stock does not change in value between March 10, 2009 and the
10 date they are actually liquidated.³

11 **III.**

12 **ARGUMENT**

13 **THE SALE OF THE ASSETS IS IN THE BEST INTEREST OF THE CREDITORS**

14 **A. The Court May Authorize the Sale of the Assets.**

15 Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that a trustee, “after
16 notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property
17 of the estate.” 11 U.S.C. § 363(b)(1). Section 363 does not set forth a standard for determining
18 when it is appropriate for a court to authorize the sale or disposition of property prior to confirmation
19 of a plan. However, courts in this Circuit and others have required that the decision to sell property
20 outside the ordinary cause of business be based upon the sound business judgment of the debtors.
21 *See In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (BAP 9th Cir. 1996) (“debtors who
22 wish to utilize § 363(b) to dispose of property of the estate must demonstrate that such disposition
23 has a valid business justification”), *citing In re Lionel Corp.*, 722 F. 2d 1063, 1070 (2nd Cir. 1983).

24 Several courts have held that the “sound business judgment” test requires a debtor to
25 establish four elements in order to justify the sale or lease of property outside the ordinary course of
26 business, namely, (1) that a “sound business purpose” justifies the sale of property outside the
27 ordinary course of business, (2) that adequate and reasonable notice has been provided to interested

28 ³ The price for the Assets fluctuates on a daily basis. Accordingly, the Debtor makes no guarantees regarding how much it will realize through a final sale of the Assets.

1 persons, (3) that the debtors have obtained a fair and reasonable price, and (4) good faith. *See In re*
2 *Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143 (3rd Cir. 1986); *Lionel Corp.*, 722 F.2d at 1071.

3 The sale of the Assets easily satisfy the four elements of the *Abbotts* case.

4 First, there are sound business reasons justifying the sale. As part of its winding down, the
5 Debtor must sell its assets and reduce them to cash to pay creditors and fund a plan of
6 reorganization.

7 Second, adequate notice of the Motion has been provided. The Debtor has served copies of
8 the Motion on the Debtor's landlords, those asserting secured claims (or potential secured claims)
9 against the Debtor's assets, counsel to the Committee, the United States Trustee, and those who have
10 requested special notice.

11 Third, the price the Debtor expects to receive on the open market is "fair and reasonable."
12 The Debtor believes that the sale of the Assets is not only in the best interest of the estate but also
13 fair and reasonable in light of the facts and circumstances of this case and the existing economic
14 situation in the country. The Assets being sold are not used by the Debtor in the ordinary course of
15 its business and fluctuate in value on almost a daily basis. For example, the Assets have fluctuated
16 in value on a daily basis but have experienced an overall depreciation by approximately \$6.00 per
17 share since the Petition Date. In light of the economic uncertainties present in the country, Debtor
18 believes that it is in the best interest of the estate to sell the Assets in the immediate future.

19 Fourth, the sale of the Assets is in good faith and through an arms-length transaction on the
20 open stock market. As such, the Debtor believes that such a sale will guarantee that the Debtor will
21 receive the market price for the Assets.

22 Accordingly, there is a valid business justification for the Debtor's proposed sale of the
23 Assets and as such, the sale should be approved.

24 **B. The Assets May be Sold Free and Clear of Liens, Claims, and Interests**

25 Section 363(f) of the Bankruptcy Code permits the Debtor to sell assets free and clear of all
26 liens, claims and encumbrances, with any such liens, claims and encumbrances attaching to the
27 proceeds of the sale. 11 U.S.C. § 363(f). Section 363(f) of the Bankruptcy Code provides:

28 ///

1 The trustee may sell property under subsection (b) or (c) of this section
2 free and clear of any interest in such property of an entity other than the
3 estate, only if:

- 4 (1) applicable nonbankruptcy law permits sale of such property free
5 and clear of such interest;
6 (2) such entity consents;
7 (3) such interest is a lien and the price at which such property is to be
8 sold is greater than the aggregate value of all liens on such property;
9 (4) such interest is in bona fide dispute; or
10 (5) such entity could be compelled, in a legal or equitable proceeding,
11 to accept a money satisfaction of such interest.

12 11 U.S.C. § 363(f).

13 Because section 363(f) of the Bankruptcy Code is written in the disjunctive, any one of these
14 five conditions provides authority to sell the assets free and clear of liens. *See Citicorp Homeowners*
15 *Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988).

16 The Debtor believes that there are no true encumbrances on the Assets other than the lien
17 alleged by Bank of America and Citibank. However, all obligations to those lenders have been fully
18 cash collateralized. Moreover, the perfection of these liens is subject to avoidance, as has been
19 previously explained to the Court.⁴ Simply put, to the extent that any party asserts an interest in the
20 Assets, the validity of such interest is in bona fide dispute and the Debtor may sell the Stock free and
21 clear of any such interest under section 363(f)(4) of the Bankruptcy Code.

22 In addition, to the extent any party asserting an interest in the Assets does not file a written
23 objection to the Motion, such party should be deemed to have consented to the sale of the
24 Intellectual Property free and clear of its asserted interest pursuant to section 363(f)(2) of the
25 Bankruptcy Code. *See In re Channel One Communications, Inc.*, 117 B.R. 493, 496 (Bankr. E.D.
26 Mo. 1990).

27 Furthermore, if any liens, claims, or encumbrances exist and the consent of creditors with
28 any such interest in the assets cannot be obtained in the time permitted, a sale free and clear can

26 ⁴ Among the parties listed in the caption, only Bank of America (for itself and as agent for Citibank), filed a
27 UCC-1 Financing Statement against the FF&E. The others listed may assert other sorts of interests (such as
28 the potential (and void) attachment interest ordered pre-petition in favor of Bush Associates). The Debtor
does not believe that there are any valid encumbrances on the Assets other than the claim of Bank of America
(and, by extension Citibank). This lien is fully collateralized already, and is subject to avoidance. The others
are listed in the caption only out of an abundance of caution.

1 proceed pursuant to Section 363(f)(5) of the Bankruptcy Code, because creditors with interests in the
2 Assets can be compelled to accept a monetary satisfaction of their claims.

3 Accordingly, because the proposed sale of the Assets satisfies the requirements of Section
4 363(f), the Debtor requests that the Court approve the sale of the Assets free and clear of any liens,
5 claims, and interests with such liens, claims, and interests attaching to the proceeds of the sale of the
6 Assets.

7 **C. Relief From The Ten Day Waiting Period Under Bankruptcy Rule 6004(h) Is**
8 **Appropriate**

9 Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of
10 property . . . is stayed until the expiration of 10 days after entry of the order, unless the court orders
11 otherwise.” The Debtor requests that the order approving the sale of Assets be effective immediately
12 by providing that the ten (10) day stay under Bankruptcy Rule 6004(h) is waived.

13 The Debtor hereby requests that the Court waive the ten-day stay period under Bankruptcy
14 Rule 6004(h) as the value of the Assets are in flux and may further depreciate during the ten-day stay
15 period.

16 **IV.**

17 **CONCLUSION**

18 Based upon the foregoing, the Debtor respectfully requests that this Court grant the Motion
19 authorizing the sale of the Assets, free and clear of liens, and grant the Debtor such other and further
20 relief as the Court deems just and proper under the facts and circumstances of this case.

21 Dated: March 12, 2009

PACHULSKI STANG ZIEHL & JONES LLP

22 By /s/ Miriam Khatiblou

23 John D. Fiero (CA Bar No. 136557)
24 Kenneth H. Brown (CA Bar No. 100396)
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10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 In re:

Case No.: 08-32514

13 Heller Ehrman LLP,¹

Chapter 11

14 Debtor

**DECLARATION OF PETER J.
BENVENUTTI IN SUPPORT OF
DEBTOR'S MOTION TO SELL STOCK
FREE AND CLEAR OF LIENS**

[No Hearing Date Set]

17 I, Peter J. Benvenutti, declare as follows:

18 1. I am a member of the Dissolution Committee created by the Plan of Dissolution
19 adopted as of September 26, 2008 by Heller Ehrman LLP, formerly known as Heller Ehrman White
20 & McAuliffe LLP, the debtor and debtor-in-possession in the above-captioned case (the "Debtor"). I
21 also am the designated "responsible individual" for the Debtor pursuant to B.L.R. 4002-1. I am
22 authorized to submit this declaration on behalf of the Debtor. I have personal knowledge of the facts
23 set forth below, and if called to testify, I would testify competently thereto.

24 2. This declaration is provided in support of the *Debtor's Motion to Sell Stock Free and*
25 *Clear of Liens* ("Motion") filed concurrently herewith.
26

27
28 ¹ The Debtor's address is 333 Bush Street, San Francisco, CA 94104, Federal Tax I.D. No. 94-1217308.

1 3. On December 28, 2008 (the “Petition Date”), the Debtor filed a voluntary petition for
2 relief under Chapter 11 of the Bankruptcy Code. The Debtor has continued in possession of its
3 property and is operating and managing its business as debtor-in-possession pursuant to Sections
4 1107(a) and 1108 of the Bankruptcy Code.

5 4. On January 5, 2009, the United States Trustee for this district appointed an Official
6 Committee of Unsecured Creditors.

7 5. The Debtor, a 118 year-old international law firm, is currently winding down its
8 business and affairs following the adoption of a Plan of Dissolution by the shareholders of the
9 Debtor’s limited partners in September, 2008. Although the Debtor is no longer engaged in the
10 practice of law, there remain a substantial number of unperformed, yet necessary, tasks relating to
11 winding down the business, maximizing the value of the Debtor’s assets for the benefit of its
12 creditors and equity interest holders, and discharging the Debtor’s obligations to its former clients.
13 Thus, the Debtor still maintains a workforce of approximately 50 employees (including temporary
14 employees) to provide these necessary services, and incurs routine business expenses (including
15 payroll, employee benefits, office space and equipment, insurance, and costs for other goods and
16 services) as part of the winding down process. Among other things, winding down the Debtor’s
17 business includes pursuing the collection of its outstanding accounts receivable, coordinating and
18 managing the transition and securing of client and firm business records, assisting in negotiations
19 with key creditor constituencies, and performing a number of bookkeeping, office and administrative
20 services.

21 The Assets Subject To The Sale

22 6. The Debtor holds 4,639 shares of publically traded stock in Verizon
23 Communications, Inc. (the “Verizon Stock” or “Assets”). I am informed and believe that the
24 Verizon Stock was received as a distribution on the Debtor’s claim for pre-petition unpaid legal fees
25 filed in the Chapter 11 case of Worldcom (which subsequently was acquired by and merged into
26 Verizon). The Debtor does not need the Assets for any purpose other than to generate cash from
27 them, and thus it is in the best interest of the estate and a prudent business decision to sell such
28

1 Assets. I am informed and believed and thereon allege that the parties with potential liens in the
2 Assets consent to the Debtor's sale of the Assets, free and clear of its liens or interests.

3 7. As of March 10, 2009, the Verizon Stock was trading at approximately \$27.61 per
4 share. Accordingly, the sale of the Assets may generate approximately \$128,082 in proceeds,
5 assuming the price of the Assets does not change between March 10, 2009 and the date they are
6 actually liquidated. The current stock price is approximately \$6.00 less per share than what the
7 Verizon Stock was selling for on the Petition Date.

8 Status of Known or Potential Liens, Claims and Encumbrances

9 8. The Debtor has identified six specific parties that do or could conceivably allege a
10 lien, claim, encumbrance or interest in the Assets. They are: Bank of America NT&SA (now known
11 as Bank of America, N.A.), for itself and as agent for CitiBank, N.A.; 333 Bush Associates NF L.P.;
12 and Silicon Valley Bank. These parties' interests in the Assets arise in the following ways. Bank of
13 America and Citibank are alleged secured lenders of the Debtor, the perfection of whose claims are
14 subject to avoidance as discussed in prior pleadings on file with the Court. This debt relates to a
15 loan, as well as to liability for letters of credit issued on account of the Debtor. The Debtor believes
16 that the claims of Bank of America N.A. and CitiBank, N.A. have been fully collateralized with
17 cash. 333 Bush Associates obtained a right to attach order and order for issuance of writ of
18 attachment against the Debtor's personal property in California prior to the Petition Date (whether or
19 not 333 Bush Associates levied upon its attachment with the California Secretary of State is not
20 known at the time of the execution of this declaration; the Debtor does not believe any such alleged
21 lien (if it existed) could extend outside the boundaries of California), and in any event such an
22 attachment lien was automatically terminated under California CCP §493.030(b) upon the filing of
23 the petition initiating this case. Silicon Valley Bank has a UCC-1 Financing Statement of record
24 against one of the professional corporations that make up the Debtor's limited liability partnership;
25 that UCC-1 purports to extend to "all goods and equipment" as well as "fixtures." The Debtor has
26 no current knowledge of any current loan from, or valid lien right of, Silicon Valley Bank. Once
27 again, the Debtor seeks only to sell its own property, not anything belonging to Silicon Valley
28 Bank's named obligor (Heller Ehrman White & McAuliffe, A Professional Corporation). Based

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upon the foregoing, the Debtor can and does dispute in good faith that any of the alleged liens, claims and encumbrances described above are valid or binding upon the Assets.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 10th day of March 2009, at San Francisco, California.

/s/ Peter J. Benvenuti
PETER J. BENVENUTTI