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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

SUNWEST MANAGEMENT, INC.,  
CANYON CREEK DEVELOPMENT,  
INC., CANYON CREEK FINANCIAL,  
LLC, AND JOHN M. HARDER,

Defendants,

DARRYL E. FISHER, ET AL.,

Relief Defendants.

Case No. 09-6056-HO  
**RECEIVER MICHAEL A.  
GRASSMUECK'S MOTION  
FOR APPROVAL OF SETTLEMENT  
WITH GROVE, MUELLER &  
SWANK, P.C. AND FOR ENTRY OF  
CLAIMS BAR ORDER**

MICHAEL A. GRASSMUECK,  
Receiver,

Plaintiff

vs.

GROVE, MUELLER & SWANK, P.C.

Defendant

Case No. 09-CV-0650-HO

## MOTION

Please take notice that on September 20, 2011 at 1:30 p.m. or as soon as the matter may be heard in the above-captioned actions, in the Courtroom of the Honorable Michael Hogan at the Wayne L. Morse United States Courthouse, 405 East Eighth Avenue, Eugene, Oregon 97401, Michael A. Grassmueck, the duly appointed receiver ("Receiver") pursuant to orders in *SEC v. Sunwest Mgmt., Inc.*, Case No. 09-CV-6056-HO (the "SEC Action") for Sunwest Management, Inc., Canyon Creek Development, Inc., Canyon Creek Financial, LLC, Fuse Advertising, Inc., KDA Construction, Inc., and other entities (collectively, "the Receivership Entities"), will, and hereby does, move the Court for an order approving the settlement and settlement agreement (the "Settlement" and "Settlement Agreement") entered into between the Receiver<sup>1</sup> and Grove, Mueller & Swank, P.C. ("GMS") and entering a Final Claims Bar Order with respect thereto. A true and correct copy of the Settlement Agreement is attached to the Memorandum of Points & Authorities as Exhibit 1.

The Receiver has asserted claims against GMS on behalf of Sunwest investors and the Receivership Entities in *Grassmueck v. Grove, Mueller & Swank, P.C.*, Case No. 09-CV-0650-HO, (the "GMS Case"). The Receiver has also received assignments of claims, asserted or unasserted, against GMS from Sunwest investors, creditors, and claimants (the "Third Party Claims"), pursuant to the Plan of Distribution approved on October 2, 2009, in the SEC Case; the Receiver's, CRO's and Debtor's Second Amended Joint Plan of Reorganization (May 27, 2010), filed in the Bankruptcy Case; and the Order Re Assignment of All Sunwest Investors' and Claimants' Rights and Claims Against Certain Third Parties to Receiver dated April 7, 2011 (the "Assignment Order").

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<sup>1</sup> Terms not otherwise defined herein are as defined in the Settlement Agreement.

