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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17
18 MARCIANO PLATA, et al.,
19 Plaintiffs,
20 v.
21 ARNOLD SCHWARZENEGGER, et al.,
22 Defendants.

Case No. C01-1351 TEH

**DECLARATION OF STUART C.
PLUNKETT IN SUPPORT OF
RECEIVER'S OPPOSITION TO
DEFENDANTS' MOTION TO
TERMINATE THE
RECEIVERSHIP AND THE
RECEIVER'S CONSTRUCTION
PLANS**

Hon. Thelton E. Henderson

1 I, Stuart C. Plunkett, declare:

2 1. I am an attorney licensed to practice law in the State of California and am admitted
3 to practice before this Court. I am a partner in the law firm of Morrison & Foerster LLP, counsel
4 for the Receiver in this action. I submit this Declaration in Support of the Receiver's Opposition
5 to the Defendants' Motion to Terminate the Receiver and the Receiver's Construction Plans
6 ("Motion to Terminate"). I make this Declaration based on personal knowledge. If called as a
7 witness, I would testify to the facts set forth below.

8 2. On February 18 and 19, 2009, I spoke with Kenneth Roost and William Kwong,
9 counsel for Defendants in this action, regarding the Motion to Terminate. During those
10 conversations, Mr. Roost and Mr. Kwong confirmed that the only ground on which Defendants
11 seek termination of the Receivership is the argument that the Prison Litigation Reform Act
12 ("PLRA") does not permit appointment of receivers. Mr. Roost and Mr. Kwong confirmed that,
13 if the Court finds that the PLRA permits appointment of Receivers, Defendants do not seek
14 termination of the Receivership. I told counsel that the Motion to Terminate and the evidence
15 submitted in support indicated that Defendants were moving to terminate the Receivership on
16 additional grounds, and I asked that counsel either withdraw and re-file the Motion to Terminate
17 or sign a stipulation. Counsel for Defendants declined to do either, and stated that I could
18 confirm our conversations in writing. Accordingly, on February 19, 2009, I sent Mr. Roost and
19 Mr. Kwong an email confirming our conversations.

20 I declare under penalty of perjury under the laws of the United States that the foregoing is
21 true and correct. Executed on February 23, 2009 in San Francisco, California.

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/s/ Stuart C. Plunkett
Stuart C. Plunkett

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GENERAL ORDER 45 ATTESTATION

I, James J. Brosnahan, am the ECF User whose ID and password are being used to file this Declaration of Stuart C. Plunkett in Support of Receiver’s Opposition to Defendants’ Motion to Terminate the Receivership and the Receiver’s Construction Plans. In compliance with General Order 45, X.B., I hereby attest that Stuart C. Plunkett has concurred in this filing.

/s/ James J. Brosnahan
James J. Brosnahan
Attorneys for Receiver