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9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 SECURITIES AND EXCHANGE
12 COMMISSION,

CASE NO. 2:20-CV-02303-RFB-DJA

13 Plaintiff,

14 vs.

15 CAPSOURCE, INC., STEPHEN J. BYRNE,
16 AND GREGORY P. HERLEAN, .

17 Defendants.

18 **CERTIFICATE OF NOTICE REQUIRED BY LR 66-5 AND NOTICE OF NON-**
19 **OPPOSITION TO RECEIVER’S MOTION FOR APPROVAL OF (1) THE**
20 **RECEIVER’S INTERIM DISTRIBUTION PLAN; AND (2) PROCEDURES FOR THE**
21 **DISPOSITION OF THE ESTATE’S INTERESTS IN CERTAIN REAL PROPERTY**

22 Geoff Winkler, the Court-appointed Receiver (the “Receiver”), respectfully submits this
23 Certificate of Notice Required by LR 66-5 and Notice of Non-Opposition to his Motion for
24 Approval of (1) the Receiver’s Interim Distribution Plan and (2) Procedures for the Disposition
25 of the Estate’s Interests in Certain Real Property (the “Motion”) (ECF No. 48).

26 Under Local Rule 7-2(b), any response in opposition to a motion is due fourteen (14)
27 days after the motion is filed. *See* LR 7-2(b). “The failure of an opposing party to file points
28 and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion
for attorneys’ fees constitutes a consent to the granting of the motion.” LR 7-2(d). Under Local

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1 Rule 66-5, a receiver is required to also provide all interested parties and potential creditors at
2 least fourteen (14) days' notice before the Court hears and resolves certain matters. *See*
3 LR 66- 5.

4 The Receiver filed and electronically served the Motion on April 5, 2023. (*See*
5 ECF No. 48). Any response in opposition to the Motion was therefore due April 19, 2023.
6 Consistent with the Court's direction at the February 23, 2023, hearing, the Receiver also
7 notified all known creditors and other interested parties for whom the Receiver has an email
8 address by email on or before April 7, 2023, and all known creditors and other interested parties
9 for whom the Receiver has a mailing address but no email address by United States mail on or
10 before April 13, 2023. The undersigned certifies that the notice described in this paragraph was
11 provided by the dates stated.

12 After providing the notice to potential creditors described above, the Receiver received
13 phone calls and emails from individuals who identified themselves as CapSource investors with
14 questions regarding the Motion. Specifically, the Receiver and his staff fielded and/or
15 responded to approximately thirty-two (32) phone calls and twenty-two (22) emails from
16 investors and/or potential creditors pertaining to the Motion. The Receiver provided as much
17 information to those potential creditors as he appropriately and practically could. No investor
18 or other potential creditor of the Estate indicated an intention to intervene in this case to oppose
19 the Motion or otherwise challenge the Motion, but they were nevertheless advised of their right
20 to do so.

21 The fourteen-day notice periods provided by Local Rules 7-2(b) and 66-5 have thus both
22 expired, and no party, interested party, or creditor filed any opposition or other response to the
23 Motion. That being the case, and also in consideration of the substantive points and legal

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1 authorities set forth in the Motion itself, the Receiver requests that the Court consider and grant
2 the Motion. A proposed form of order was attached to the Motion as Exhibit 1.

3 DATED this 8th day of May, 2023.

4 **GREENBERG TRAUIG, LLP**

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6 By: */s/ Kyle A. Ewing*

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CERTIFICATE OF SERVICE

I hereby certify that on **May 8, 2023**, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive such service.

/s/ Evelyn Escobar-Gaddi
An employee of GREENBERG TRAURIG, LLP

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