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Attorneys for Receiver Geoff Winkler

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE
COMMISSION;

Plaintiff,

vs.

CAPSOURCE, INC., et al.

Defendants.

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

**STIPULATION AND [PROPOSED]
ORDER AUTHORIZING THE SALE
OF MORTGAGE INTEREST IN
CERTAIN REAL PROPERTY**

The following Stipulation and [Proposed] Order (the “Stipulation”) regarding the sale of CapSource Inc.’s interest in certain loan transactions and to facilitate the satisfaction of the principal amount of such loans as further described below, is entered into by and between Geoff Winkler, the Court-appointed receiver in the above-entitled action (the “Receiver”), and the Plaintiff, Securities and Exchange Commission (the “SEC”), by and through their respective representatives, and with respect to the following facts:

1. On or around December 19, 2013, CapSource entered into a Promissory Note with Fillmore Real Estate Partners, LLC (“Fillmore”) by which CapSource loaned Fillmore the principal amount of \$600,000 through which Fillmore granted CapSource a mortgage interest in certain real property located in Ward County, North Dakota (the “Property”).

2. On or around May 1, 2015, Fillmore defaulted under the terms of the Promissory Note and subsequently, on or around February 25, 2016, Black Label Partners, LLC

1 (“Black Label”) was substituted as the borrower in place of Fillmore. As result, CapSource and
2 Black Label agreed to reinstate and modify the Promissory Note. The rights, titles, interests,
3 assignments and security interests held by CapSource relating to the Property are collectively
4 referred to herein as the “Ward County Property Interest.”

5 3. On August 26, 2022, this Court issued an order appointed Geoff Winkler
6 as receiver of Defendant CapSource, Inc. *See* ECF No. 17 (“Appointment Order”).

7 4. Among other things, the Appointment Order requires the Receiver to take
8 custody, control and possession of all Receivership Property which includes CapSource’s Ward
9 County Property Interest which as of March 6, 2025 has an outstanding principal balance of
10 \$559,388.

11 5. The Property was listed for sale for six years without receiving any offers
12 before entering Receivership. After years of unsuccessful efforts by the borrower, it was
13 determined that the best course of action would be to resolve the matter by allowing the mortgage
14 interest to be purchased from CapSource Receivership. The land is further encumbered by a
15 second deed of trust from an unrelated party, and the borrower is also delinquent on property
16 taxes, owing \$56,132.62 for the tax years 2022-2024. If the Property remains unsold by
17 September 2025, an additional payment of \$21,983.40 plus interest will be required to maintain
18 the first deed of trust position. Failure to make this payment would result in the county
19 proceeding with the foreclosure process. Given the lack of buyer interest, the presence of an
20 additional mortgage, and the outstanding tax liens, the Receiver recommends selling the
21 mortgage interest. This approach offers the highest potential recovery for investors while
22 minimizing additional costs associated with the encumbrances and tax obligations.

23 6. Representatives of Fillmore have come forward and expressed a
24 willingness and desire to purchase the Ward County Property Interest from the Receiver and
25 have agreed to assume the related maintenance and tax obligations that are currently being born
26 by the receivership estate.

27 7. Accordingly, the Receiver (“Seller”) desires to sell to Fillmore
28 (hereinafter referred to “Buyer”) the liens, rights, titles, interests, assignments and security

1 interests held by Seller in regard to the Ward County Property Interest for a purchase price of
2 \$292,369,37, pursuant to the terms and conditions set forth in the Purchase and Sale Agreement
3 (“Purchase Agreement”) attached hereto as **Exhibit A**, subject to final approval by the
4 Receivership Court. Notably, Buyer has agreed to pay all closing costs and the purchase price
5 is subject to adjustments if the Receiver is required to pay further incremental property tax
6 assessments (each a “Foreclosure Assessment”) to the Ward County Treasurer before the
7 completion of the sale of the Ward County Property Interest to Buyer. In the event of any such
8 payment(s) to the Ward County Treasurer, the Purchase Price shall be increased by the amount
9 of any and all Foreclosure Assessment.

10 8. By mutual agreement of the Parties and as a result of Buyers previous
11 investment into the Property, a deposit has not been required.

12 9. It is anticipated that closing for the Ward County Property Interest will be
13 held ninety (90) days following the entry of order by this Court approving the Purchase
14 Agreement, unless such day is extended for an additional thirty (30) day period as contemplated
15 by the Purchase Agreement.

16 10. The Receiver believes that the offer and terms set forth in the Purchase
17 Agreement are fair and that the purchase prices represents fair market value for CapSource’s
18 Ward County Property Interest for the reasons set forth herein.

19 11. It is anticipated that upon closing, this sell will provide value to the
20 Receivership Estate in the amount of \$292,369,37. And although the individual investors will
21 not fully re-coup their investment, it does not make economical sense to continue to hold
22 CapSource’s Ward County Property Interest and pay the expenses related thereto.

23 12. The Receiver is seeking to close the sale via this Stipulation because of the unique
24 nature of the Ward County Property Interest and its limited value which does not lend itself to
25 soliciting overbids and filing a separate sale motion as contemplated by the Distribution &
26 Disposition Order (ECF 49 & 61).

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1 13. Accordingly, in light of the unique facts and circumstances surrounding
2 CapSource's Ward County Property Interest as set forth herein, the undersigned parties believe
3 this Stipulation is necessary, and in the best interest of all parties and the receivership estate and
4 request the Court's approval to proceed with the sale as contemplated by the Purchase
5 Agreement.

6 Dated this 11th day of March 2025

7 **GREENBERG TRAURIG, LLP**

8
9 */s/ Kara B. Hendricks*

10 KARA B. HENDRICKS,
11 Nevada Bar No. 07743
12 KYLE A. EWING
13 Nevada Bar No 14051
14 10845 Griffith Peak Drive, Suite 600
15 Las Vegas, Nevada 89135

16 *Attorneys for Receiver Geoff Winkler*

Dated this 11th day of March 2025

**SECURITIES & EXCHANGE
COMMISSION**

8
9 */s/ Terri Miller*

10 TERRY MILLER
11 Colorado Bar No. 39007
12 1961 Stout Street
13 Suite 1700
14 Denver, Colorado 80294
15 Email: millerte@sec.gov

16 *Attorneys for Plaintiffs Securities and
17 Exchange Commission*

18 **IT IS SO ORDERED.**

19 _____
20 UNITED STATES DISTRICT COURT JUDGE

21 Date: _____
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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION
Exhibit A	Purchase and Sale Agreement

EXHIBIT A

EXHIBIT A

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “Agreement”) is made effective as of August 21, 2024 (the “Effective Date”), by and between CapSource, Inc., a Nevada corporation, by and through Geoff Winkler its Court Appointed Receiver, (“CapSource” or “Seller”), and Fillmore Real Estate Partners, LLC, a Nevada limited liability company (“Buyer” and together with the Seller, the “Parties”) to facilitate the sale of the Receiver’s interest in certain loan transactions and to facilitate the satisfaction of the principal amount of such loans.

RECITALS

- A. On or around December 19, 2013, CapSource entered into a Promissory Note with Fillmore Real Estate Partners, LLC (“Fillmore”) evidencing a loan from Seller to Fillmore in the principal amount of SIX HUNDRED THOUSAND and 00/100 Dollars (\$600,000.00) (the “Promissory Note”), a copy of which is attached hereto as **EXHIBIT A**.
- B. In connection with the Promissory Note, Fillmore and CapSource executed a Mortgage, dated December 31, 2013 (the “Mortgage”), through which Fillmore granted to CapSource a mortgage interest in certain real property known as LOT TWO (2), BLOCK ONE (1) FILLMORE NORTH TO THE CITY OF MINOT, WARD COUNTY, NORTH DAKOTA (the “Property”). A true and correct copy of the Mortgage is attached hereto as **EXHIBIT B** (collectively, the Promissory Note and the Mortgage are referred to herein as the “Fillmore Loan Documents”).
- C. On or around May 1, 2015, Fillmore Real Estate Partners, LLC defaulted under the terms of the Promissory Note.
- D. On or around, February 25, 2016, the Parties modified the Fillmore Loan Documents, substituting Black Label Partners, LLC (“Black Label”) as the Borrower under the Promissory Note and the Mortgagor under the Mortgage.
- E. On or around June 15, 2016, CapSource and Black Label executed an Assumption and Modification to Promissory Note (the “Note Modification”) through which CapSource and Black Label agreed to reinstate and modify the Promissory Note.
- F. The rights, titles, interests, assignments and security interests held by CapSource under the Fillmore Loan Documents are collectively referred to herein as the “Ward County Property Interest.”
- G. Whereas Geoff Winkler of American Fiduciary Services was appointed as Receiver of CapSource Inc. on August 26, 2022 (“Appointment Order”) in Case No. 2:20-cv-02303-RFB-DJA pending in the United States District Court, District of Nevada (“Receivership Court”).
- H. Whereas among other things, the Appointment Order requires the Receiver to take custody, control and possession of all Receivership Property which includes the Ward County Property Interest.

- I. As of the date of this Agreement, the Promissory Note has an outstanding principal balance of FIVE HUNDRED FIFTY-NINE THOUSAND THREE HUNDRED EIGHTY-EIGHT and 44/100 Dollars (\$559,388.44) (the “Outstanding Balance”).
- J. Buyer desires to purchase from Seller and Seller desires to sell to Buyer the rights, titles, interests, assignments and security interests held by Seller through the Ward County Property Interest upon the terms and conditions contained in this Agreement, subject to final approval by the Receivership Court.

NOW, THEREFORE: in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. **Sale of Property Interest.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions contained in this Agreement, all of Seller’s right, title and interest in the Ward County Property Interest.
2. **Purchase Price.** The purchase price for the Ward County Property Interest shall be TWO HUNDRED NINETY-TWO THOUSAND THREE HUNDRED SIXTY-NINE and 37/100 Dollars (\$292,369.37) (the “Purchase Price”). However, the Purchase Price is subject to adjustment if the Receiver is required to pay a further incremental property tax assessment or assessments (each a “Foreclosure Assessment”) to the Ward County Treasurer after the Effective Date but before the Parties complete the sale of the Ward County Property Interest. If the Receiver determines, in his sole discretion, that payment of a Foreclosure Assessment is necessary to avoid foreclosure of the Property at any time before the Ward County Property Interest is transferred to Buyer, the Receiver shall pay such Foreclosure Assessment. In the event of any such payment or payments, the Purchase Price shall be increased by the amount of any and all Foreclosure Assessment paid after the Effective Date.
3. **Deposit.**
 - a. By mutual agreement of the Parties and as a result of Buyer’s previous investment into the Property, Buyer shall not be required to make a deposit under this Agreement.
4. **Closing and Closing Date.**
 - a. Closing shall be held on, or with the mutual consent of the Buyer and Seller, ninety (90) days following the entry of order approving this Agreement by the Receivership Court (the “Closing Date”).
 - b. The Closing Date may be extended once, for a period of thirty (30) days, upon written notice to Seller, received not later than ten (10) days prior to the original Closing Date.
5. **Closing Costs.**

- a. Buyer shall pay (i) any and all escrow and/or closing costs; (ii) the cost of recording any documents related to the transfer, release and/or reconveyance of the Mortgage or any other document(s) including, without limitation, any recording charges imposed by the applicable governmental authority by reason of the transfer of the Property and any real property transfer, conveyance or recording taxes imposed by the applicable governmental authority by reason of the transfer of the Property (“Transfer Tax”); (iii) all expenses relating to its inspection of the Property including, but not limited to, engineering, environmental and property surveys and the Survey whether or not Buyer closes title to the Property; (iv) the cost of coverage under the Owner’s Title Insurance Policy and endorsements thereto (other than those which Seller elects to obtain to cure any objection); (v) any cost incurred in connection with any financing obtained by Buyer including, without limitation, mortgage recording tax and mortgagee title insurance premiums; and (vi) any sales tax payable on the sale of any personal property to Buyer. The provisions of this Paragraph 5 shall survive the Closing, the delivery of the deed, and the termination of this Agreement.
6. **Release of Lien.** At Closing, to the extent necessary, Seller shall execute an Assignment of Mortgage or a Release of Lien and/or any other document(s) required by the County of Ward, North Dakota for the assignment or release and discharge of the liens, rights, titles, interests, assignments and security interests created by the Fillmore Loan Documents subsequent to receiving notice that the Purchase Price, as set forth in Section 2 herein, has been received by Escrow Agent.
7. **Representations of Buyer.** To induce Seller to enter into this Agreement and to sell the Property, Buyer makes the following representations, warranties and covenants, upon each of which Buyer acknowledges that Seller is entitled to rely upon, and has relied upon, and each of which shall be true and accurate as of the Effective Date.
 - a. **Execution; Enforceability.** This Agreement has been duly executed and delivered by Buyer, constitutes the valid and binding agreement of Buyer and is enforceable in accordance with its terms.
 - b. **Authority; Non-Contravention.** Buyer has full right, power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder, and this Agreement constitutes valid and binding obligations of Buyer and, to the best knowledge of Buyer, after due investigation, the execution and performance of this Agreement by Seller does not and will not at Closing contravene, or constitute a default under, or violate the terms, provisions or conditions of any document, instrument, agreement, stipulation, judgment or order to which Buyer is a party or by which Buyer is bound.
 - c. **Litigation.** There is no material action, suit or proceeding pending or, to the best of Buyer’s knowledge, threatened against or affecting Buyer in any court, before any arbitrator or before or by any governmental body.

- d. **Bankruptcy.** No petition in bankruptcy (voluntary or involuntary) or for the appointment of a receiver or trustee has been filed by or against Buyer; no insolvency proceeding has been commenced against Buyer; and Buyer has not made an assignment for the benefit of creditors or filed a petition for an arrangement or entered into an arrangement with creditors, which petition, proceedings, assignment, or arrangement exists, is pending, or is contemplated by Buyer; and Buyer has not failed generally to pay its debts as they become due.
8. **Assignment.** This Agreement may be assigned by Buyer only with the prior written consent of Seller, which shall not be unreasonably withheld.
9. **Court Approval.** Buyer expressly understands the terms of this Agreement and the sale of the Ward County Property Interest to Buyer is conditioned upon the final approval of the Receivership Court and the Judge presiding therein, who may impose additional terms and conditions; provided, however, any such additional terms and/or conditions shall be subject to Buyer's approval, which shall not be unreasonably withheld.
10. **Entire Agreement.** Any prior agreement or understanding among the parties concerning the subject matter hereof is hereby superseded. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and the transactions contemplated herein and shall not be modified or amended except in a written document signed by all of the parties hereto. The parties intend that this Agreement shall be binding on and inure to the benefit of each of them and their heirs, successors, personal representatives and assigns.
11. **Notices.** All notices or other communications required or permitted under this Agreement shall be in writing and delivered personally, by registered or certified mail, return receipt requested, postage prepaid, electronic mail, or by a nationally recognized overnight courier (such as Federal Express) with receipted delivery to the following addresses:

If to Seller:

CapSource, Inc.
c/o Geoff Winkler
American Fiduciary Services
715 NW Hoyt Street #4364
Portland, Oregon 97208
email: geoff@americanfiduciaryservices.com

with a copy to:

Kara B. Hendricks, Esq.
10845 Griffith Peak Dr.
Suite 600
Las Vegas, Nevada 89135
email: hendricksk@gtlaw.com

If to Buyer:

Fillmore Real Estate Partners, LLC
c/o William Dyer
3311 S. Rainbow Blvd., Ste 209
Las Vegas, NV 89146

email: bill.ifa1@gmail.com

All notices, demands or other communications given in accordance with the terms hereof shall be deemed effective when (a) if delivered in person or by overnight courier, on the business day it is delivered, (b) if sent by registered or certified mail, three (3) Business Days after deposit with the U.S. mail or (c) if sent by electronic mail. Any party hereto may change its address by written notice to all parties hereto sent in accordance with the terms of this Paragraph and any such Notice of change of address shall be effective five (5) days after delivery.

12. **Governing Law.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Nevada without regard to its principles of conflicts of laws, and any action brought under or arising out of this Agreement or the matters relating hereto shall be submitted to the Receivership Court. Each party acknowledges and agrees to such jurisdiction.
13. **Litigation Costs.** If there is any legal action or proceeding between the parties hereto arising from or based upon this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all litigation costs and expenses, including reasonable attorneys' fees, incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith, and if such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorneys' fees shall be included in as part of such judgment.
14. **Waiver of Jury Trial.** EACH PARTY HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER PARTY IN CONNECTION WITH ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF SELLER AND BUYER HEREUNDER, BUYER'S OWNERSHIP OR USE OF THE PROPERTY, AND/OR ANY CLAIMS OF INJURY OR DAMAGE. EACH PARTY HEREBY CONSENTS TO SERVICE OF PROCESS AND ANY PLEADING RELATING TO ANY SUCH ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM AT THE ADDRESS SET FORTH FOR SUCH PARTY IN SECTION 10 HEREOF; PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL BE CONSTRUED AS REQUIRING SUCH SERVICE AT SUCH ADDRESS.
15. **Counterparts.** This Agreement may be executed in any number of identical counterparts, any or all of which may contain the signatures of fewer than all of the parties but all of which shall be taken together as a single instrument.
16. **Further Assurances.** The parties agree (a) to furnish upon request to each other such further information, (b) to execute and deliver to each other such other documents, and (c) to do such other acts and things, all as the other party may reasonably request for the purposes of carrying out the intent of this Agreement and the documents referred to in this Agreement.

17. **Waiver.** The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by applicable law, (a) no claim or right arising out of this Agreement or the documents referred to in this Agreement can be discharged by one party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other party; (b) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one party will be deemed to be a waiver of any obligation of such party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement.
18. **Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provisions of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
19. **Paragraph Headings; Construction.** The headings of the Paragraphs in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to “Paragraph” or “Paragraphs” refer to the corresponding Paragraph or Paragraphs of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word “including” does not limit the preceding words or term.
20. **Time of Essence.** With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.
21. **Default; Specific Performance; Remedies.** In the event Seller fails to perform its obligations hereunder by Closing and Buyer has fully met all of its obligations due as of Closing, Buyer may, in its sole discretion, and as its sole exclusive remedy either (a) terminate this Agreement, or (b) seek specific performance. In the event that Buyer fails or refuses to perform its obligations hereunder, Seller shall be entitled to terminate this Agreement and collect from Buyer any Foreclosure Assessments paid after the Effective Date of this Agreement in reliance on the Buyer’s willingness to purchase the Ward County Property Interest. The parties hereto acknowledge and agree that it is impossible to estimate more precisely the damages that might be suffered by Seller upon Buyer’s breach or default. Seller’s entitlement and receipt of any foreclosure Assessments paid by the Receiver to the Ward County Treasurer is intended not as a penalty, but as full and complete liquidated damages. Notwithstanding the above, in the event of any default hereunder by either party, the prevailing party to any action hereunder shall be entitled to

recover all costs related to such action, including, but not limited to, court costs, expert witness fees and attorney's fees.

Each party hereto acknowledges that the other parties will be irreparably harmed and that there will be no adequate remedy at law for any violation by any of them of any of the covenants or agreements contained in this Agreement, including without limitation, the confidentiality obligations set forth herein. It is accordingly agreed that, in addition to any other remedies which may be available upon the breach of any such covenants or agreements, each party hereto shall have the right to obtain injunctive relief to restrain a breach or threatened breach of the covenants and agreements contained in this Agreement.

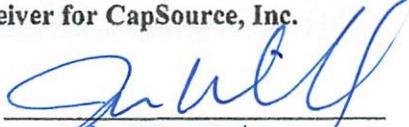
22. **Recording.** This Agreement may not be recorded by any party hereto.
23. **Business Day(s).** As used in this Agreement, the term "Business Day(s)" or "business day(s)" shall mean any day other than a Saturday, Sunday or day on which the banks in Nevada are authorized or permitted to be closed. If the date for compliance with this Agreement is not a Business Day, then such date shall be automatically extended to the next Business Day following such date.

**[INTENTIONALLY LEFT BLANK
SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal,
with the intention that it be a sealed instrument, as of the date set forth above.

SELLER:

Receiver for CapSource, Inc.

By: 
Name: Geoff Winkler
Title: Receiver

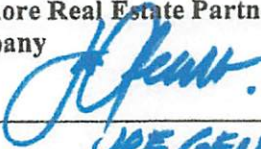
BUYER:

Fillmore Real Estate Partners, LLC, a Nevada limited liability
company


By: William Dyer
Its: Manager

BUYER:

Fillmore Real Estate Partners, LLC, a Nevada limited liability
company


By: JOE GENOVESE
Its: MANAGER