

1 Jeffrey B. Cereghino (SBN 99480)  
jbc@cereghinolaw.com  
2 CEREGHINO LAW GROUP  
649 Mission St. 5<sup>th</sup> Floor  
3 San Francisco, California 94105  
Telephone: (415) 433-4949

4 *Attorneys for Plaintiff Stephen A. Schneider*  
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 STEPHEN A. SCHNEIDER, on behalf of  
12 himself and all others similarly situated,

13 Plaintiff,

14 v.

15 COCOA PRC II, a Delaware limited liability  
company, COCOA DEVELOPMENTAL  
16 ASSOCIATES, a Delaware limited liability  
company, FAIRMONT COCOA LLP, JMA  
17 VENTURES, a Delaware limited liability  
company, HPSF HOLDINGS VII, a Delaware  
18 limited liability company, FAIRMONT COCOA  
MANAGEMENT, COCOA RESIDENTIAL  
19 OWNERS ASSOCIOATION and Does 1-100.

20 Defendants.  
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Case No. CGC-18-567026

**STIPULATION AND  
AGREEMENT REGARDING  
MODIFICATION OF THE  
SETTLEMENT AGREEMENT**

1 WHEREAS, On or about May 14, 2020 the Parties executed a Settlement Agreement  
2 resolving all the claims alleged in the above litigation.

3 WHEREAS, a Motion for Preliminary Approval of the Settlement Agreement was filed in  
4 the Superior Court of San Francisco County, in Department 302.

5 WHEREAS, Judge Ethan Schulman issued a tentative ruling on November 9, 2020 which  
6 was not opposed by the Parties. The ruling, among other things, recommended the Parties  
7 revise the class definition to eliminate the Declaratory Relief Sub-Class.

8 WHEREAS, the Parties met and conferred regarding the Court's recommendation and  
9 agreed as follows:

10 The Parties stipulate and agree to amend the Class Definition in the Settlement  
11 Agreement.

12 1. The new and operative Class Definition is:

13 "All purchasers of floating fractional interests or whole interests in Fairmont  
14 Heritage Place Ghirardelli Square, who were or are members of the Cocoa  
15 Residential Owners Association and who purchased their fractional or whole  
16 interest prior to May 17, 2018."

17 2. The Parties have consulted with the respective clients, who have approved  
18 amending the Settlement Agreement and the Class Definition as stated herein.

19 3. The Parties have authorized the undersigned Counsel to execute this Stipulation and  
20 Agreement, and the signature of Counsel shall be binding upon the Clients and  
21 Principals.

22 Therefore, the Settlement Agreement is hereby amended as follows:

23 ORIGINAL DEFINITION: IV: A. Plaintiff has proposed a Settlement Class  
24 consisting of:

- 25 (1) All purchasers of floating fractional interests or whole  
26 interests in Fairmont Heritage Place Ghirardelli Square,  
27 who were or are members of the Cocoa Residential

1 Owners Association and who purchased their fractional or  
2 whole interest prior to January 1, 2013,

- 3 (2) Declaratory Relief Subclass: All purchasers of floating  
4 fractional interests in Fairmont Heritage Place Ghirardelli  
5 Square, who were or are members of the Cocoa Residential  
6 Owners Association and who purchased their fractional or  
7 whole interest prior to May 17, 2018.

8 AMENDED DEFINITION

9 IV: Plaintiff has proposed a Settlement Class consisting of:

10 "All purchasers of floating fractional interests or whole interests in Fairmont  
11 Heritage Place Ghirardelli Square, who were or are members of the Cocoa  
12 Residential Owners Association and who purchased their fractional or whole  
13 interest prior to May 17, 2018."

- 14 4. This Stipulation and Agreement may be executed in counterparts and is effective as  
15 of December 8, 2020.


16 **IT IS SO STIPULATED.**

17 Dated: December 8, 2020

18 By:   
19 Jeffrey B. Cereghino, SBN 099480  
20 Email: jbc@rocklawcal.com  
21 CEREGHINO LAW GROUP  
22 649 Mission Street, Floor 5  
23 San Francisco, California 94105  
24 Telephone: (415) 433-4949

25 *Attorneys for Plaintiff and Proposed Classes*

26 Dated: December 8, 2020

27   
John G. Heller (SBN 129901)  
ROGERS JOSEPH O'DONNELL  
311 California Street, 10th Fl.  
San Francisco, CA 94104  
Telephone: (415) 956-2828  
jheller@rjo.com

*Attorneys for Defendant JMA VENTURES*

1  
2 Dated: December 8, 2020

*Brian Maschler*

3 BRIAN P. MASCHLER (SBN 111824)  
4 MARK POSARD (SBN 208790)  
5 GORDON REES SCULLY MANSUKHANI LLP  
6 275 Battery Street, Suite 2000  
7 San Francisco, CA 94111  
8 Telephone: (415) 986-5900  
9 Facsimile: (415) 986-8054  
10 bmaschler@grsm.com

11 *Attorneys for Defendants Cocoa PRCII, Cocoa*  
12 *Developmental Associates, Fairmont Cocoa LLP, HPSF*  
13 *Holdings VII, Fairmont Cocoa Management, Cocoa*  
14 *Residential Owners Association*  
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