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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

U.S. VENTURES LC, a Utah limited liability
company, WINSOME INVESTMENT
TRUST, an unincorporated Texas entity,
ROBERT J. ANDRES and ROBERT L.
HOLLOWAY,

Defendants.

**SIXTEENTH STATUS REPORT OF R.
WAYNE KLEIN, RECEIVER**

**FOR PERIOD OCTOBER 16, 2014 TO
JANUARY 15, 2015**

Case No. 2:11-cv-00099 BSJ

R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) of U.S. Ventures LC (“USV”), Winsome Investment Trust (“Winsome”), and all the assets of Robert J. Andres (“Andres”) and Robert L. Holloway (“Holloway”) (collectively, the “Receivership Entities”), hereby submits this Sixteenth Status Report for the period of October 16, 2014 through January 15, 2015 (the “Reporting Period”).

I. INTRODUCTION

1. The Receivership case is experienced a reduced level of activity as the number and types of actions needing to be taken diminishes. The Receiver is looking to complete the remaining matters so the Receivership Estate can be terminated and remaining funds distributed to investors. There were, however, significant developments during the past three months. Both Robert Andres and Robert Holloway were sentenced on their criminal convictions. The U.S. Department of Justice announced plans to provide additional funds for distribution to victims of US Ventures and Winsome. The Receiver was granted summary judgment in one of the last two pending litigation cases, and motions for summary judgment are pending in the remaining case. The remaining appeal cases are moving forward and efforts are being made to collect on several judgments that the Receiver had obtained previously.

2. The status of the criminal case is discussed in Section II. Developments in the claims process is discussed in Section III. Settlements during the Reporting Period are discussed in Section IV. Litigation developments, collections, and appeals are discussed in Section V. A financial summary is included in Section VI.

II. CRIMINAL PROSECUTIONS

3. On December 17, 2014, both Robert Andres and Robert Holloway were sentenced on their criminal convictions. Andres had entered a guilty plea to one count of wire fraud and assisted the U.S. Attorney's Office in the prosecution of Robert Holloway. The criminal sentence imposed on Andres reflected the guilty plea to a single felony and his assistance to prosecutors. Andres was sentenced of spend 56 months in prison. He must report to prison on February 17, 2015. He was also ordered to pay \$3,291,310.29 in restitution. After his release from prison, he

will be on supervised probation for three years.

4. Robert Holloway was also sentenced on December 17, 2014. Holloway was ordered to serve 225 months (18.7 years) in prison. This unusually long sentence was based on his conviction on five different felonies and the large amount of losses that was proved at trial. After his release from prison, Holloway will be subject to three years of supervised probation. He was ordered to pay \$15.2 million in restitution. Holloway was already in custody at the time of sentencing, so he has already begun serving his sentence.

III. CLAIMS PROCESS

5. Of the 118 distribution checks sent to investors in July 2014, all but two have been cashed. These two uncashed checks total \$10,700.00.

6. In connection with the criminal convictions and sentencing of Robert Andres and Robert Holloway, the U.S. Department of Justice plans to distribute funds that it recovered in 2011 as part of a forfeiture action involving one of the homes owned by Robert Holloway. The Department of Justice asked the Receiver to conduct a claims process and distribute the forfeited funds to investors. The Receiver created a claim form, which was approved by the Department of Justice. With the availability of these new funds, a new claims process was created to allow investors who had missed the July 2012 claims deadline to submit claims.

7. Notice of this additional claims process was posted on the Receivership website on December 17, 2014 and also mailed or sent by email to all persons who had contacted the Receiver after the July 31, 2012 claims deadline about submitting a claim.

8. The claims deadline for these new claims is January 31, 2015. Investors submitting newly-filed claims will be able to participate in distributions of funds being provided

by the Department of Justice. Thus, the Department of Justice funds will be distributed to investors who submitted valid timely claims in 2011 (“Receivership Claimants”) and to investors submitting valid claims before January 31, 2015 (“DOJ Claimants”).

9. The Receiver anticipates requesting approval by the Court to make a second distribution of Receivership funds to Receivership Claimants at the same time that the Receiver distributes the forfeited funds being held by the Department of Justice.

IV. SETTLEMENTS

10. There were no new settlements reached during the Reporting Period. However, the Receiver was required to file a motion in his lawsuit against Michele Petty. This motion, filed on November 18, 2014, seeks to enforce a September 8, 2014 settlement agreement in which Petty agreed to pay \$45,000.00 to the Receivership Estate. Because Petty failed to make the payment required by the settlement agreement, the Receiver is asking the court to grant him a judgment that he can enforce against Petty.

V. LITIGATION DEVELOPMENTS

11. Receivership Litigation. Of the 88 lawsuits the Receiver filed seeking the recovery of funds, only two were still in active litigation in the district court at the beginning of the Reporting Period. The first, against Lou Georges, resulted in the court granting summary judgment to the Receiver on November 24, 2014 in the amount of \$48,500.00. The second and final case, against Peter Widmark, is pending before the court on motions for summary judgment submitted by both parties.

12. Collection Efforts. The Receiver has hired attorneys in Texas and Georgia to collect on judgments awarded against Roberto Penedo, William Cornelius, and Ravkind &

Associates. On October 22, 2014, Roberto Penedo filed for bankruptcy, so collection efforts against him are stayed. Collection efforts continue against Cornelius and Ravkind.

13. Appeals. Three cases where the Receiver obtained judgments still have appeals pending.¹

a. William Cornelius, Cornelius & Salhab. On February 25, 2014, Cornelius appealed the \$89,845.73 judgment entered against him and his law firm. The appeal was heard by the Tenth Circuit Court of Appeals on January 22, 2015, after the end of the Reporting Period.

b. Roberto Penedo (Judgment). On March 31, 2014, Penedo appealed the \$197,000.00 judgment against him. Based on Penedo's bankruptcy filing, Penedo's appeal of this judgment has been put on hold.

c. Roberto Penedo (Claim Denial). On April 1, 2014, Penedo filed an appeal of the Court's order denying Penedo's claim. Penedo's bankruptcy filing has raised the issue of whether Penedo can pursue this appeal or whether this appeal can only be pursued by the bankruptcy trustee. The Receiver and Penedo have submitted arguments to the appeals court on this issue. The appeals court has instructed Penedo's bankruptcy attorney to file a response, which he did so after the reporting period ended.

d. Terry Harper. On June 23, 2014, Harper filed an appeal of the judgment entered against him. The final brief was filed by Harper on October 20, 2014. No oral argument has been requested. The Receiver is now awaiting a ruling by the appeals court.

¹ A fourth appeal was filed by Roberto Penedo regarding the denial of his claim in the claims process.

VI. FINANCIAL REPORT

A. Recoveries for the Receivership

14. A total of \$169.26 was recovered for the Receivership Estate during the Reporting Period. The money came from the following sources:

Category	Amount
Settlement Recoveries	\$150.00
Bank: Interest Earned	\$19.26
<i>Total</i>	<i>\$169.26</i>

B. Expenditures by the Receivership

15. Expenditures from the Receivership bank account, for operating expenses of the Receivership, were as follows:

Category	Amount
Collection Fees, Expenses	\$4,377.02
Tax Preparation, Filing Fees	\$657.47
<i>Total</i>	<i>\$5,034.49</i>

16. The Receivership bank account balance, as of January 15, 2015, was \$826,959.91. This amount includes \$10,700.00 in distribution checks that have not yet been cashed.

VII. NEXT STEPS

17. The next steps the Receiver expects to pursue are:

- a. Evaluate claim forms requesting to participate in distribution of funds recovered by the Department of Justice, consult with the Department of Justice on how those claims should be treated, and, when instructed by the Department of Justice, distribute forfeited funds to valid claimants. The Receiver anticipates requesting approval by this Court for a second

distribution of Receivership funds to valid claimants at the same time that forfeited funds are send to claimants.

b. Await court rulings on the pending Widmark summary judgment motions and the cases pending before the appeals court. When these rulings are issued, the Receiver can commence collection efforts on any new judgments; and

c. Continue efforts to collect on judgments already granted in favor of the Receivership.

VIII. CONCLUSION

The Receiver respectfully submits this Sixteenth Status Report for the period from October 16, 2014 through January 15, 2015. The Receiver verifies under penalty of perjury that the foregoing is a true and correct summary of information he has discovered to date in his investigation and actions taken during the Reporting Period.

DATED this 29th day of January, 2015.



WAYNE KLEIN, Receiver

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **SIXTEENTH STATUS REPORT OF R. WAYNE KLEIN, RECEIVER FOR PERIOD OCTOBER 16, 2014 THROUGH JANUARY 15, 2015** to be served in the method indicated below to the Defendants in this action this 29th day of January, 2015.

- VIA FACSIMILE
- VIA HAND DELIVERY
- VIA U.S. MAIL
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