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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.

Case No. 2:11CV00099 BSJ

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

**FOR PERIOD JANUARY 16, 2015
TO APRIL 15, 2015**

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 Seventeenth Status Report for the period of January 16, 2015 through April 15, 2015 (the "Reporting Period").

I. INTRODUCTION

1. The number and types of actions needing to be taken in the Receivership continues to diminish. The Receiver is looking to complete the remaining matters so the Receivership Estate can be terminated and remaining funds distributed to investors. There is one case still pending at the trial court level, where both sides have filed motions for summary judgment and are awaiting a ruling in the case. Two cases remain pending on appeal and efforts continue to collect on several judgments the Receiver obtained previously.

II. CLAIMS PROCESS

2. Of the 118 distribution checks sent to investors in July 2015, two remain uncashed. These two checks total \$10,700.00. In April 2015 the Receiver has sent a replacement check to one of these investors. The second investor died in 2014 and the Receiver is waiting for her will to be probated and a personal representative appointed so a new distribution check can be sent.

3. As noted in the Sixteenth Report, the U.S. Department of Justice hopes to obtain funds from Holloway and Andres as a result of restitution orders imposed on them as part of their sentencing on criminal charges. In conjunction with the Department of Justice, the Receiver created a claim form for use by investors who missed the July 2012 deadline to submit claims. Eighteen additional claim forms were submitted to the Receiver, asserting claims for \$3,634,753.08. The Receiver recommended that seventeen of the claims be approved in the amount of \$3,471,110.80.

4. To the extent that criminal restitution funds are recovered by the Department of Justice, they will be distributed to both groups of claimants—those who submitted timely claims as part of the Receivership matter and those who submitted claims in connection with the criminal claims process. Thus, those investors with qualifying claims will receive funds both from amounts recovered by the Receiver and those funds recovered by the Department of Justice. Investors whose sole qualifying claims are through the criminal restitution process will receive only funds that are gathered pursuant to the criminal restitution orders.

5. On March 23, 2015, the Department of Justice sent a \$400.00 check to the Receiver as a restitution payment from Robert Holloway. The criminal restitution money is being held in a segregated account. The Receiver will hold these and other funds until the next distribution is made from Receivership funds.

III. LITIGATION

6. On March 30, 2015, the Court granted the Receiver's motion to enforce the settlement agreement signed by Michele Petty. The same day, the Court entered judgment for the Receiver in the amount of \$45,000.00. On April 13, 2015, the Receiver filed a motion for recovery of his attorneys' fees and costs. Soon after the Receiver filed a motion for his attorneys' fees, Petty contacted the Receiver's counsel and arranged to pay the settlement amount of \$45,000. The parties are working on issues relating to the fees outstanding that Petty caused the Receiver to expend.

7. The only other case in litigation at the trial court level is the recovery action the Receiver brought against Peter and Laurie Widmark. Both sides have filed motions for summary judgment. On February 24, 2015, the Court heard oral arguments on the motions. The Receiver

is awaiting rulings on the motion.

8. The Receiver is actively pursuing efforts to collect on judgments he obtained against William Cornelius, Ravkind & Associates, and Ursula Andres. He expects to pursue collection efforts against Terry Harper and others.

IV. APPEAL STATUS

9. One of the appeals was resolved during the Reporting Period. Two other cases where the Receiver obtained judgments still have appeals pending.

a. Terry Harper. On February 4, 2015, the appeals court affirmed the Receiver's judgment of \$336,470.07 against Terry Harper and Wings Over the World. Harper subsequently filed a petition for rehearing by the entire Tenth Circuit panel. That request was denied on March 23, 2015. The Receiver will now begin collection efforts on this judgment.

b. William Cornelius, Cornelius & Salhab. On February 25, 2014, Cornelius appealed the \$89,845.73 judgment entered against him and his law firm. Argument on the appeal was heard by the Tenth Circuit Court of Appeals on January 22, 2015, but no decision has been entered as of the end of the Reporting Period. As noted above, the Receiver is already pursuing collection of this judgment.

c. Roberto Penedo (Claim Denial). On April 1, 2014, Penedo filed an appeal of the Court's order denying his claim for a share of the funds recovered by the Receiver.¹ Penedo's appeal brief was signed on March 13, 2015. The Receiver's brief opposing Penedo's

¹ Penedo also filed a separate appeal disputing the judgment the Receiver obtained against him. After this appeal was filed, Penedo filed for personal bankruptcy and the appeal was put on hold. Penedo's bankruptcy case has now resulted in a discharge and the Receiver expects Penedo's appeal of the judgment to be dismissed.

claim for a share of the funds recovered was filed on April 15, 2015.

V. FINANCIAL REPORT

A. Recoveries for the Receivership

10. A total of \$18.25 was recovered for the Receivership Estate during the Reporting Period as interest in the funds in the Receivership bank account.

B. Expenditures by the Receivership

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

Category	Amount
Collection Fees, Expenses	\$12,512.04
Cornelius Appeal Expenses	\$79.69
Surety Bond Renewal	\$100.00
<i>Total</i>	<i>\$12,691.73</i>

12. On April 10, 2015, the Court approved the payment of \$70,798.67 in attorneys' fees and expenses for counsel for the Receiver and \$23,201.00 in fees for the Receiver. These were for services provided between September 2014 and February 2015.

13. The Receivership bank account balance, as of April 15, 2015, was \$720,376.76. This amount includes \$10,700.00 in distribution checks that have not yet been cashed. This balance does not include the \$400.00 in criminal restitution the Receiver is holding in a separate account for distribution for the U.S. Department of Justice.

VI. NEXT STEPS

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

- a. Obtain rulings on the two appeals that remain pending.

- b. Obtain a ruling on the cross motions for summary judgment in the Widmark matter. If summary judgment is awarded to the Receiver, he will begin collection efforts. If summary judgment is denied, he will push for a trial date.
- c. Continue collection efforts on judgments previously awarded to the Receiver.
- d. Make plans for a final distribution of funds and closing the Receivership Estate.

VII. CONCLUSION

The Receiver respectfully submits this Seventeenth Status Report for the period from January 16, 2015 through April 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 30th day of April, 2015.



WAYNE KLEIN, Receiver

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **SEVENTEENTH STATUS REPORT OF R. WAYNE KLEIN, RECEIVER, FOR PERIOD JANUARY 16, 2015 THROUGH APRIL 15, 2015** to be served in the method indicated below to the Defendants in this action this 30th day of April, 2015.

☐ VIA FACSIMILE
☐ VIA HAND DELIVERY
☒ VIA U.S. MAIL
☐ VIA FEDERAL EXPRESS
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/s/ Melissa Aguilar