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Court-Appointed Receiver

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

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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

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

**FOR THE PERIOD NOVEMBER 1,  
2015 TO JANUARY 31, 2016**

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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 Twentieth Status Report for the period of November 1, 2015 through January 31, 2016 (the "Reporting Period").

### **I. INTRODUCTION**

1. There are four matters needing to be resolved in order to conclude the Receivership: a) resolution of a single remaining litigation case, b) negotiating allocation of net sales proceeds from the foreclosure sale of Robert Andres' home, c) collection on judgments granted to the Receiver, and d) distribution of funds to allowed claimants. The Receiver is endeavoring to complete these remaining matters quickly and with as little expense as possible so the Receivership Estate can be terminated and remaining funds distributed to investors.

### **II. LITIGATION**

2. The last of the 89 cases filed by the Receiver seeking recovery of funds is close to resolution. On August 26, 2015, Judge Waddoups issued a decision and order requiring Peter and Laurie Widmark to repay \$191,000.00 in excess profits to the Receiver. This is the full amount of excess payments to them. The Widmarks have opposed the Receiver's motion for entry of judgment, asserting that they should not be required pay pre-judgment interest. The Receiver has filed his reply and the issue was submitted to the court for decision on October 20, 2015.

### **III. APPEAL STATUS**

3. All appeals have been resolved with rulings in favor of the Receivership. There are no cases pending on appeal.

### **IV. COLLECTION, ASSET RECOVERY EFFORTS**

4. The Receiver has been awarded 32 judgments that have not yet been satisfied. Many of these judgments were obtained by default, suggesting that the defendants may have few

assets available to satisfy these judgments. Other judgments are against corporations and entities that have ceased their existence, making recovery more doubtful.

5. During the Reporting Period, the following developments occurred:

a. The Receiver authorized a collection law firm to close three collection files as uncollectible. These files involved judgments against two entities that ceased operations in 2009 and 2013 and an individual who died in 2012 with no known assets or probated estate. A fourth matter, the judgment debt owed by Roberto Penedo, was previously discharged in bankruptcy.

b. A Georgia law firm hired to collect on the judgment against King, King & Jones filed a complaint seeking to hold David Jones liable for the judgment against his law firm, King, King & Jones. That matter is pending.

c. A Texas court put the law firm Ravkind & Associates in receivership. It has ceased conducting business. The Texas receiver sent \$1,390.61 to the Receiver, representing the sole remaining assets of Ravkind & Associates.

d. William T. Cornelius (a Texas attorney) filed a Chapter 13 petition for bankruptcy on December 17, 2015. The Receiver has filed a proof of claim in the bankruptcy proceeding and has sent information to the bankruptcy trustee about the possible recovery of assets of Mr. Cornelius. The Receiver has instructed his Texas counsel to cease any further work on this matter.

6. Twenty-three judgments are being pursued by a law firm in New Jersey that specializes in collecting these types of judgments. The New Jersey law firm advances all expenses and will be compensated only from a share of proceeds recovered. To date, no funds



have been recovered from these judgments. The Receiver rejected a settlement offer from Warren Chiu to this law firm by which Chiu proposed to pay funds to the Receiver only if Chiu earned above certain income levels.

7. As noted in the prior report, CitiMortgage foreclosed on the home owned by Robert and Ursula Andres on October 6, 2015. On January 13, 2016, CitiMortgage sold the home to a third party buyer. The net proceeds from the home sale were \$133,345.00. Pursuant to a settlement agreement between the Receiver and CitiMortgage in 2011, CitiMortgage would receive certain proceeds from the sale and the remainder would go to the Receivership Estate. The Receiver is negotiating with CitiMortgage on the amounts to be paid to the Receiver.

**V. DISTRIBUTION OF FUNDS TO ALLOWED CLAIMANTS**

8. On November 13, 2015, the Receiver filed a motion for permission to pay a second interim distribution. The Court held a hearing on December 4, 2015. On December 9, 2015, the Court issued an order approving a second interim distribution to 91 investors.

9. On December 9, 2015, the Receiver sent checks totaling \$603,605.44 to 91 claimants. As of the end of the reporting period, seven of these checks, totaling \$6,027.00 remain to be cashed.

10. As noted in the Seventeenth Report, the Receiver received a \$400.00 restitution payment from Robert Holloway in March 2015. On January 21, 2016, an additional \$125.00 was sent to the Receiver as restitution from Mr. Holloway. The Receiver is working with the Department of Justice to get a large amount of forfeited funds that the DOJ has holding released to the Receiver for distribution, however, Holloway has appealed his criminal conviction. As a result, the forfeited funds cannot be released until Holloway's appeal is decided.

## VI. FINANCIAL REPORT

### A. Recoveries for the Receivership

11. During the Reporting Period, the Receivership received \$1,390.61 on the Ravkind judgment and \$48.40 in interest on the funds in the Receivership bank account.

### B. Expenditures by the Receivership

12. Expenditures from the Receivership bank account, for operating expenses of the Receivership and distributions to investors, were as follows:

<b>Category</b>	<b>Amount</b>
Collection Fees, Expenses	\$3,185.12
Other (bank fees, tax filing)	\$1,484.38
Distribution checks cashed	\$606,638.45
<b><i>Total</i></b>	<b><i>\$611,307.95</i></b>

13. The Receivership bank account balance, as of January 31, 2016, was \$77,973.98. This balance does not include the \$525.00 in criminal restitution the Receiver is holding in a separate account for distribution for the U.S. Department of Justice.

## VII. NEXT STEPS

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

- a. Obtain and collect on the judgment in the Widmark case;
- b. Negotiate the amount and recover the Receivership's share of net proceeds from the sale of the Andres home;
- c. Continue collection efforts on judgments previously obtained; and
- d. Await receipt of forfeited funds being held by the Department of Justice for distribution to investors.

**VIII. CONCLUSION**

The Receiver respectfully submits this Twentieth Status Report for the period from November 1, 2015 through January 31, 2016. 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 9<sup>th</sup> day of February, 2016.

  
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WAYNE KLEIN, Receiver

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing **TWENTIETH STATUS REPORT OF R. WAYNE KLEIN, RECEIVER, FOR THE PERIOD NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016** to be served in the method indicated below to the Defendants in this action this 9th day of February, 2016.

☐ VIA FACSIMILE  
☐ VIA HAND DELIVERY  
☒ VIA U.S. MAIL  
☐ VIA FEDERAL EXPRESS  
☐ VIA EMAIL  
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*Defendant*

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