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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

**TWENTY-THIRD STATUS REPORT  
OF R. WAYNE KLEIN, RECEIVER**

**FOR THE PERIOD SEPTEMBER 1,  
2016 TO NOVEMBER 30, 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 Twenty-Third Status Report for the period of September 1, 2016 through November 30, 2016 (the “Reporting Period”).

## **I. INTRODUCTION**

1. The only matters remaining in order to terminate the Receivership are selling and collecting on judgments obtained and making a final distribution. Progress was made during the Reporting Period in persuading the U.S. Department of Justice to distribute funds it is holding and seeking court approval to auction judgments held by the Receiver.

## **II. CRIMINAL RESTITUTION, CIVIL FORFEITURE FUNDS**

2. Robert Holloway has paid the Receivership Estate \$700.00 in criminal restitution. This money will be divided among all allowed claimants in the Receivership claims process and 17 additional persons whose claims were part of the criminal case. The Receiver intends to distribute these funds at the same time he makes the final distribution of the Receivership funds. Sadly, these checks will be for very small amounts; most will be for less than \$5.00 and many will be under \$1.00.

3. On October 4, 2016, U.S. District Judge Robert Shelby signed an order in the Holloway and Andres criminal cases,<sup>1</sup> amending the judgment to identify victims entitled to restitution. The amended judgment provides that any future restitution obtained from Robert Holloway or Robert Andres will be distributed by the Department of Justice, instead of the Receiver. This will relieve the Receiver from any obligation to continue accepting—and then distributing—small amounts of criminal restitution funds. The amended judgment also corrects

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<sup>1</sup> 2:11-CR-00984-001 RJS & 2:11-CR-00985-RJS (Docket No. 284).

an error, to now include a victim who was previously omitted from the initial criminal restitution order.

4. The Receiver investigated whether the Receivership Estate might assert a right to take control over \$123,008.96 in civil forfeiture funds being held by the U.S. Department of Justice. In the end, the Receiver concluded that the Receivership Estate would not be able to assert rights to those funds because: a) the civil forfeiture action was commenced on October 1, 2007, before the Receivership was created<sup>2</sup> and b) the federal civil forfeiture laws provide that title to the real property that is the subject of the forfeiture action vested in the United States upon commission of the act giving rise to forfeiture (which occurred before the Receivership Estate was created).<sup>3</sup>

5. The Receiver discussed a possible settlement agreement with the Department of Justice by which the Department would agree to petition the district court for permission to distribute the forfeited funds. On November 14, 2016, Department of Justice formally approved the request from the U.S. Attorney for the District of Utah to distribute the forfeited funds to the victims of US Ventures. This eliminated the need for the settlement agreement being discussed. These forfeiture funds will be distributed to claimants directly by the Department of Justice.

### **III. SALE OF JUDGMENTS AT AUCTION**

6. On October 19, 2016, the Receiver filed a motion requesting Court approval to

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<sup>2</sup> *United States of America v. Real Property located at [Redacted] Salt Lake City, Utah 84117, et al.*, 2:07-CV-0738 TS (D. Utah).

<sup>3</sup> 18 U.S.C. § 981(f).

sell 25 outstanding judgments at public auction.<sup>4</sup> This represents all the uncollected judgments obtained by the Receiver, except one.<sup>5</sup>

7. At the request of the Court, the Receiver obtained additional information from the attorneys who have been attempting to collect on these judgments. On November 30, 2016, the Receiver filed a supplemental notice describing the collection efforts taken and the status of legal proceedings relating to these judgments.

8. If the motion is approved by the Court, the Receiver will publicize notice of the auction and sell these judgments at a public auction.

#### **IV. FINANCIAL REPORT**

9. During the Reporting Period, the Receivership received \$450.00 from collection of outstanding judgments. An additional \$33.83 in interest was earned on funds in the Receivership bank accounts. No other income was received and there are no other assets remaining to sell.

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

<b>Category</b>	<b>Amount</b>
Collection fees	\$3,469.16
Bank wire fee	\$16.00
<b>Total</b>	<b>\$3,485.16</b>

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<sup>4</sup> Docket No. 444.

<sup>5</sup> The exception is the judgment against Forres McGraw, where the Receiver believes he will recover more from current collection efforts than by selling the judgment. The Receiver reached a tentative settlement agreement with McGraw in October and discussions are ongoing, but so far McGraw has failed to sign the agreement.

11. The Receivership bank account balance, as of November 30, 2016, was \$237,299.30. This balance does not include the \$700.00 in criminal restitution the Receiver is holding in a separate account for distribution on behalf of the U.S. Department of Justice.

V. NEXT STEPS

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

- a. If approved by the Court, sell the 25 outstanding judgments at auction, depositing the net proceeds in the Receivership bank account.
- b. Continue collection efforts on the judgment against Forres McGraw.
- c. Submit a plan to the Court for termination of the Receivership Estate and payment of a final distribution.

VI. CONCLUSION

The Receiver respectfully submits this Twenty-Third Status Report for the period from September 1, 2016 to November 30, 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 December, 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 **TWENTY-THIRD STATUS REPORT OF R. WAYNE KLEIN, RECEIVER, FOR THE PERIOD SEPTEMBER 1, 2016 THROUGH NOVEMBER 30, 2016** to be served in the method indicated below to the Defendants in this action this 9th day of December, 2016.

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