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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-FOURTH STATUS REPORT  
OF R. WAYNE KLEIN, RECEIVER**

**FOR THE PERIOD DECEMBER 1,  
2016 TO FEBRUARY 28, 2017**

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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-Fourth Status Report for the period of December 1, 2016 through February 28, 2017 (the “Reporting Period”).

## I. INTRODUCTION

1. Two tasks remain for the Receiver in this matter before terminating the Receivership. First, the Receiver is pursuing collection of judgments previously obtained. Second, the Receiver has received title to property in Texas, as part of a settlement with a defendant. The Receiver will market this property. Separately, the Receiver transferred criminal restitution funds being held by him to the U.S. Department of Justice for distribution to claimants.

## II. COLLECTION EFFORTS

2. On October 16, 2016, the Receiver filed a motion seeking Court approval to sell judgments held by the Receiver by means of a public auction. The Court requested additional information about the status of the judgments and the Receiver filed two supplemental notices with the Court on the status of collection efforts on each judgment.

3. At a hearing held before the Court on February 27, 2017, the Receiver withdrew his motion and explained that he will continue collection efforts by conducting examinations of defendants, under oath, to determine what assets defendants own. The Receiver will then determine the extent to which—and the manner by which—he can obtain those assets to satisfy the judgments.

4. During the Reporting Period, the Receiver was served notice that two defendants had filed petitions in bankruptcy and received discharges. For a third defendant, the defendant is serving a long prison term and has no identifiable assets. In a fourth matter, the judgment was

against a corporation that is no longer in existence and has no bank accounts or other assets that investigators have been able to find. These four collection matters have been closed.

### **III. MCGRAW SETTLEMENT, PROPERTY DISPOSITION**

5. One of the judgments the Receiver was seeking to enforce was against Forbes McGraw. On December 12, 2016, the Receiver entered into a tentative settlement agreement with McGraw under which McGraw agreed to pay \$9,000.00 and transfer to the Receiver title to recreation property McGraw owns in Texas. The property is to be transferred free and clear of any liens. The Court approved the settlement agreement on December 20, 2016.

6. McGraw has paid the \$9,000.00 cash portion of the settlement. Title was transferred to the Receiver on March 9, 2017, after the close of the Reporting period. The Receiver will market the property through a Texas real estate agent. The Receiver expects to ask the Court to approve appointment of three appraisers and to get appraisals of the property.

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

7. As noted in the Twenty-Third Status Report, on November 14, 2016, the U.S. Department of Justice formally approved the request from the U.S. Attorney for the District of Utah to distribute to victims of US Ventures civil forfeiture funds that the U.S. Attorney is holding. The Receiver had also been holding \$700.00 in criminal restitution funds relating to US Ventures. The criminal restitution funds held by the U.S. Attorney and the criminal restitution funds held by the Receiver were both destined to go to the same victims of US Ventures.

8. On December 22, 2016, the Receiver paid the \$700.00 in criminal restitution funds to the Clerk of the U.S. District Court for distribution to victims along with distribution of

other funds by the U.S. Attorney. This saves the Receivership from incurring any expenses relating to distribution of these funds.

**V. MULTIPLE MOTIONS FILED BY ANDRES**

9. On January 17, 2017, Robert Andres filed a motion with the Court entitled “Motion to Correct/Clarify Actions of Receivership.” The motion, filed by Andres from prison, asks the Court to require that he be given credit against his restitution obligation for the net proceeds from the foreclosure sale of his home. This issue is the subject of motions pending in the criminal case against Andres. The motion filed by Andres also: a) asks the Court to reconsider the judgment entered against him in 2014, b) argues that the different restitution amounts in the civil and criminal judgments against him should be the same, c) asks that the amount of civil penalty assessed in the judgment be revised, d) seeks changes to other conditions of the injunction entered against him, and e) asks the Court to require the Receiver to answer questions Andres has about operation of the Receivership.

10. On February 2, 2017, both the Receiver and the CFTC filed papers opposing Andres’ motion. The Receiver and CFTC argued that Andres lacks grounds to seek the relief he requests since he is no longer a party to the case and the time to seek reconsideration of the judgment against him has long since expired. The Receiver and CFTC also pointed out that it is not unusual or improper for criminal cases and civil cases to have different restitution amounts since each case might rely on proof relating to different victims. The Receiver also provided information on questions posed by Andres. Andres has filed a reply to his motion. The matter has now been submitted to the Court for consideration.



## VI. FINANCIAL REPORT

11. During the Reporting Period, the Receivership received \$9,350.00 from collection of outstanding judgments against Forres McGraw and Warren Chiu. As noted above, the \$9,000.00 payment from McGraw was pursuant to a settlement agreement. An additional \$32.40 in interest was earned on funds in the Receivership bank accounts.

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

<b>Category</b>	<b>Amount</b>
Collection fees	\$2,492.34
Surety bond renewal	\$100.00
<b><i>Total</i></b>	<b><i>\$2,592.34</i></b>

13. As noted above in paragraphs seven and eight, an additional \$700.00 was paid to the Clerk of the Court on December 22, 2016, but that amount was being held in a separate savings account and has not been counted as a Receivership asset in prior status reports.

14. The Receivership bank account balance, as of February 28, 2017, was \$243,671.08.

## VII. NEXT STEPS

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

a. Conduct examinations of judgment debtors in the approximately 25 collection cases pending around the country. With the information gained from these debtor examinations, the Receiver will identify any assets he can seize in order to satisfy the judgments. If judgments are deemed uncollectible, the matters will be closed.

b. Obtain appraisals for and market the Texas property received in the settlement agreement with Forres McGraw.

**VIII. CONCLUSION**

The Receiver respectfully submits this Twenty-Fourth Status Report for the period from December 1, 2016 to February 28, 2017. 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 14<sup>th</sup> day of March, 2017.

  
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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-FOURTH STATUS REPORT OF R. WAYNE KLEIN, RECEIVER, FOR THE PERIOD DECEMBER 1, 2016 THROUGH FEBRUARY 28, 2017** to be served in the method indicated below to the Defendants in this action this 15th day of March, 2017.

VIA FACSIMILE  
 VIA HAND DELIVERY  
 VIA U.S. MAIL  
 VIA FEDERAL EXPRESS  
 VIA EMAIL  
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/s/ David C. Castleberry

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