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

**FOR THE PERIOD MARCH 1,  
2017 TO MAY 31, 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-Fifth Status Report for the period of March 1, 2017 through May 31, 2017 (the “Reporting Period”).

## **I. INTRODUCTION**

1. Two tasks remain for the Receiver to complete 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. The Receivership obtained 29 judgments. A number of the judgments were obtained by default when the defendants failed to defend the lawsuits filed against them by the Receiver. The status of these judgments is summarized in the table below.

<b>Category</b>	<b>No.</b>
Payments being made on judgments	3
Judgment amounts collected or exhausted	3
Collection efforts abandoned	7
Collection efforts ongoing	16
<b>Total</b>	<b>29</b>

3. Payments Being Made. There are judgments against three related parties where the defendants are making monthly payments of \$400. Half of this amount is forwarded to the Receivership, with the other half retained by the collection agency (which is funding all costs of

collection). A total of \$2,300.00 has been paid to the Receivership to date from these three related parties.

4. Judgment Amounts Collected or Exhausted. One judgment has been paid in full: Nguyen, paid in July 2016. The second and third have resulted in exhaustion of all recoveries we expect: Ravkind & Associates and Howe/Renaud. In the Ravkind case, a Texas court appointed a receiver to liquidate this law firm. The final net proceeds that the receiver paid to the Receivership was \$2,423.23, which was paid in July 2016. No more collections are expected in these cases. In the Howe/Renaud case, the Receiver was paid a net \$1,885.60 from bank levies. No other assets have been found and further collection efforts have been abandoned.

5. Collection Efforts Abandoned. There are seven cases where diligent collection efforts have revealed that there are no assets that can be recovered or that the cost of recovery is expected to far exceed the value of any assets. Two of these involve bankruptcies where there were no distributions and discharges have been granted. In a third, the defendant is still incarcerated and we have been unable to find any assets the prosecutors did not already seize. In another two cases, settlement agreements approved by the Court required the defendants for three years to provide annual reports and copies of tax returns to the Receiver listing their net income and assets. The Receiver has reviewed those reports and performed independent research and has found no reason to believe the defendants' assets and income have reached the levels at which they were required to make payments to the Receivership. In the final two cases, judgments were domesticated in Texas and no assets have been located. One involves a business that has been dissolved.

6. Collection Efforts Ongoing. The 16 cases where active collection efforts are being made are at various stages. These judgments are against defendants living in nine different states:

a. Domestication of Judgments. Twelve of the judgments have been domesticated. In the other four cases, the judgments have been forwarded to counsel in other states for domestication. One judgment is against defendants in Ohio. One judgment is against a defendant residing in Louisiana. One judgment is against a defendant in Pennsylvania. One judgment is against a defendant located in Georgia. Two judgments are against defendants located in California. One judgment is against a defendant located in Florida. Six judgments are against defendants located in Texas. One judgment is against defendants located in Utah. With respect to the judgments against an individual and entity located in Utah, Receiver's counsel first attempted to locate the individuals or entities against whom the judgment was entered. The Receiver then assigned this Utah judgment, along with nearly all of the remaining judgments related to this receivership proceeding, to collection counsel who will pursue this and the other judgments on a contingency fee basis.

b. Asset Discovery Requests/Debtor Examinations. Post judgment discovery requests have been served on defendants in nine cases and liens have been filed against property in additional cases.

c. Collection Challenges. In several of the cases where discovery demands were served, defendants have not responded to the discovery requests and collection counsel have filed motions to compel. Other results have included: i) a sheriff levying on assets, but the assets were claimed by a third party, ii) a defendant filing objections in the home-

state courts stating the debts are not valid, and iii) a defendant has challenged garnishment orders obtained by collection counsel.

d. Potential Recoveries. In one case, after asset levies were imposed, the defendant promised to begin making monthly payments beginning in February 2017; however, no payments have been received. In another case, property was located in Ohio and liens have been placed on the property. The most promising is a settlement offer received on a large judgment amount. The Receiver sent a higher counteroffer because the Receiver believes a spouse's assets might be available in satisfaction of the judgment.

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

7. On December 20, 2016, the Court approved a settlement agreement with Forres McGraw. Under the settlement agreement, McGraw paid \$9,000 as the cash portion of the settlement on January 31, 2017. Title to lake property in Texas was transferred to the Receiver on March 9, 2017 and recorded with the county recorder on March 20, 2017.

8. When the Receiver began marketing efforts on the lake property, he discovered that McGraw also owned a boat slip use permit, which would increase the value of the property. The Receiver has demanded that McGraw deliver an assignment of the boat slip permit. To date, McGraw has failed to do so. The Receiver remains hopeful that he will obtain the permit.

### **IV. MOTION 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, makes a variety of requests to the Court. On February 2, 2017, both the Receiver and the CFTC filed papers opposing Andres' motion. The motion is still pending before the Court.

**V. FINANCIAL REPORT**

10. During the Reporting Period, the Receivership received \$2,485.60 from collection efforts on outstanding judgments. An additional \$33.26 in interest was earned on funds in the Receivership bank accounts.

11. There was only one expenditure from the Receivership bank account during the quarter: \$30.00 to file the deed that McGraw gave to the Receiver.

12. The Receivership bank account balance, as of May 31, 2017, was \$246,159.94.

**VI. NEXT STEPS**

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

a. Continue pursuing collection work on the 16 judgments still deemed viable for collection. This includes domestication of the remaining judgments, requesting discovery of defendants to identify assets, conducting debtor examinations, and negotiating agreements to settle cases.

b. Pursue efforts to obtain the boat slip use permit for the property that McGraw transferred to the Receiver. When the boat slip permit has been obtained, the Receiver will seek court approval to appoint three appraisers for the property and when the appraisals have been obtained, list the property for sale.

c. Evaluate whether a third interim distribution of receivership funds should be made in the near future, rather than waiting for termination of the Receivership Estate. If the Receiver determines to recommend another interim distribution, file a motion seeking Court approval for the distribution.

**CONCLUSION**

The Receiver respectfully submits this Twenty-Fifth Status Report for the period from March 1, 2017 to May 31, 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 22nd day of June, 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-FIFTH STATUS REPORT OF R. WAYNE KLEIN, RECEIVER, FOR THE PERIOD MARCH 1, 2017 THROUGH MAY 31, 2017** to be served in the method indicated below to the Parties in this action this 22nd day of June, 2017.

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

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