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Court-Appointed Receiver

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

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

**FOR PERIOD APRIL 16, 2015
TO JULY 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 Eighteenth Status Report for the period of April 16, 2015 through July 15, 2015 (the “Reporting Period”).

I. INTRODUCTION

1. There are relatively few—but still significant—actions needing to be taken to conclude the Receivership. The Receiver is endeavoring 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. One case remains pending on appeal. Finally, efforts continue to collect on several judgments the Receiver obtained previously.

2. The Receiver has learned that during the Reporting Period, Robert Andres reported to the Bureau of Prisons to begin serving the sentence on his criminal conviction. He is being held at a federal prison in Colorado. The Texas Bar Association disbarred Andres from the practice of law on May 4, 2015.

II. CLAIMS PROCESS

3. Of the 118 distribution checks sent to investors in July 2014, one check, in the amount of \$9,060.00 remains uncashed. This investor died in 2014 and the Receiver has contacted the attorney for her husband, inviting proof that the husband is entitled to her share of the distribution. If no proof is provided, the Receiver expects to recommend that these unclaimed funds be allocated among the remaining investors.

4. As noted in the Seventeenth Report, 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. No other funds have been

received from the Department of Justice. The Receiver will hold these and any other criminal restitution funds until the next distribution is made from Receivership funds.

III. LITIGATION

5. On March 30, 2015, the court granted the Receiver's motion to enforce the settlement agreement signed by Michele Petty and entered judgment for the Receiver in the amount of \$45,000.00. On April 17, 2015, Petty paid this judgment amount and subsequently paid another \$3,000.00 as compensation for attorneys' fees and costs in seeking to recover the judgment amount.

6. The only case still 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 motions.

7. The Receiver is actively pursuing efforts to collect on judgments he obtained against William Cornelius, Ravkind & Associates, King, King & Jones, and Ursula Andres. He expects to pursue collection efforts against Terry Harper, Lou Georges, Forres McGraw, and Connie Patterson.

8. Collection efforts against Ursula Andres were put on hold for a time after Mrs. Andres filed a petition for bankruptcy relief. Her bankruptcy petition was dismissed on June 29, 2015 and the Receiver has renewed his collection efforts against her. A writ of execution on the assets of Mrs. Andres was issued by the Harris County, Texas district court on April 22, 2015. Based on the bankruptcy discharge of Roberto Penedo, the Receiver can no longer seek collection of the \$197,000.00 judgment against Penedo.

IV. APPEAL STATUS

9. One of the appeals was resolved during the Reporting Period. That leaves one other appeal pending.

a. William Cornelius, Cornelius & Salhab. On May 17, 2015, the Tenth Circuit Court of Appeals issued a reported decision affirming the \$89,845.73 judgment awarded to the Receiver against Cornelius and his law firm. The appeals court ruled that i) the Receiver was entitled to sue Cornelius in Utah, ii) the federal district court was authorized to consider the Receiver's claims against Cornelius, iii) the payments to Cornelius were fraudulent transfers, and iv) the Receiver's claims were not barred by the statute of limitations. On June 17, 2015, Cornelius filed a petition asking the appeals court to reconsider its ruling against him and seeking review by the full Tenth Circuit panel. On June 29, 2015, Cornelius' petition was denied. As noted above, the Receiver is already pursuing collection of this judgment.

b. 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 All briefing has been completed on this appeal. The Receiver is awaiting notice of oral argument or a ruling on the appeal.

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 Penedo's appeal of the judgment has been dismissed.

V. FINANCIAL REPORT

A. Recoveries for the Receivership

10. A total of \$48,076.78 was recovered for the Receivership Estate during the Reporting Period from collection of a judgment (\$48,000.00) and as interest on the funds in the Receivership bank account (\$76.78).

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	\$8,892.22
Tax Preparation Fees	\$1,014.90
Other (bank fees, shipping)	\$82.75
Total	\$9,989.87

12. The Receivership bank account balance, as of July 15, 2015, was \$757,747.89. This amount includes \$9,060.00 in the one uncashed distribution check. 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

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

- a. Obtain a ruling on the single appeal that remains pending.
- b. Obtain rulings 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 Eighteenth Status Report for the period from April 16, 2015 through July 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 27th day of July, 2015.



WAYNE KLEIN, Receiver

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **EIGHTEENTH STATUS REPORT OF R. WAYNE KLEIN, RECEIVER, FOR PERIOD APRIL 16, 2015 THROUGH JULY 15, 2015** to be served in the method indicated below to the Defendants in this action this 28th day of July, 2015.

VIA FACSIMILE
 VIA HAND DELIVERY
 VIA U.S. MAIL
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