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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

**TWENTY-SEVENTH STATUS
REPORT OF R. WAYNE KLEIN,
RECEIVER
FOR THE PERIOD SEPTEMBER 1,
2017 TO NOVEMBER 30, 2017**

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-Seventh Status Report for the period of September 1, 2017 through November 30, 2017 (the "Reporting Period").

I. INTRODUCTION

1. Measurable progress was made during the Reporting Period on the two tasks remaining for the Receiver to terminate the Receivership: pursuing collection of judgments previously obtained and selling property in Texas received as part of a settlement agreement with Forres McGraw.

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.

Category	No.
Collection efforts ongoing	12
Payments being made on judgments	3
Collection exhausted after partial collection	6
Collection efforts abandoned	8
Total	29

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 \$3,500.00 has been paid to the Receivership to date from these three related parties.

4. Judgment Amounts Collected During Reporting Period. The Receivership had a

judgment against Kathryn Payton for \$455,125.00. Collection counsel domesticated the judgment in Texas. Payton provided evidence that she had assets worth less than \$40,000.00 that could be used to satisfy the judgment. Her new husband paid \$44,000.00 to settle the matter. The Receivership share of the settlement amount was \$21,771.08 after payment of litigation costs of \$457.84 and 50% contingency fees paid to collection counsel. An additional \$37.50 was received on the collection case that had previously been concluded against Lisa Pham.

5. Collection Efforts Abandoned During Reporting Period. The Receiver abandoned collection on the judgment against MME Group and Robert Righetti. Collection counsel verified that the company is defunct and was unable to find any assets or bank accounts for either defendant.

6. Collection Efforts Ongoing. The 12 cases where active collection efforts are being made are at various stages. These judgments are against defendants living in seven different states. Significant effort was undertaken during the Reporting Period in the collection of the judgment against King, King, & Jones. The Receiver participated in an unsuccessful mediation effort in Atlanta on October 5, 2017. On November 6, 2017, the court granted the Receiver's motion to amend the complaint to add new parties (to allow us to seek recovery from David Jones, the owner of the law firm, and his newly-formed firm); the amended complaint was filed on November 15, 2017. A revised scheduling order provides that all discovery and dispositive motions must be completed by March 22, 2018.

III. MCGRAW SETTLEMENT, PROPERTY DISPOSITION

7. Under a 2016 settlement agreement with Forres McGraw, McGraw paid \$9,000 and transferred title to lake property in Texas. However, McGraw failed to disclose ownership of

a separate boat slip tied to the property and subsequently refused to transfer ownership of that asset to the Receivership.

8. On November 9, 2017, the Receiver filed a *Motion for Order Requiring Transfer of Concealed Property*. McGraw did not contest the Receiver's motion. On December 7, 2017 (after the Reporting Period), the Court entered an order requiring McGraw to transfer the boat permit to the Receiver within 14 days of the order and to notify the Court when the transfer was accomplished.¹

IV. THIRD INTERIM DISTRIBUTION

9. On July 12, 2017, the Court approved the Receiver's motion to make a third interim distribution to 92 investors in the amount of \$200,822.43.² The distribution checks were mailed on August 21, 2017. As of the end of the Reporting Period, six distribution checks totaling \$2,929.50 remain uncashed. The Receiver is contacting those claimants to ensure proper receipt of the checks.

V. FINANCIAL REPORT

10. During the Reporting Period, the Receivership received \$22,408.58 from collection efforts on outstanding judgments. An additional \$2.67 in interest was earned on funds in the Receivership bank accounts.

11. There were four expenditures from the Receivership bank account during the quarter in the total amount of \$708.01 for postage, surety bond renewal, bank fees, and travel

¹ Docket No. 486.

² Docket No. 472.

expenses for the King, King & Jones mediation.

12. On September 6, 2017, \$38,587.24 was paid to the Receiver and his counsel as fees for work performed during the one-year period from July 2016 to June 2017.

13. The Receivership bank account balance, as of August 31, 2017, was \$34,018.85, of which \$2,929.50 reflects distribution checks that remain outstanding.

VI. NEXT STEPS

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

a. Continue pursuing collection work on the 12 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. Obtain the boat slip use permit for the property that McGraw transferred to the Receiver and engage a listing agent. At that point, the Receiver expects to seek court approval to appoint three appraisers for the property.

VII. CONCLUSION

The Receiver respectfully submits this Twenty-Seventh Status Report for the period from September 1, 2017 to November 30, 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 26th day of December, 2017.



WAYNE KLEIN, Receiver

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **TWENTY-SEVENTH STATUS REPORT OF R. WAYNE KLEIN, RECEIVER, FOR THE PERIOD SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017** to be served in the method indicated below to the Parties in this action this 26th day of December, 2017.

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

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