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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

PLCMGMT LLC, dba PROMETHEUS  
LAW, JAMES A. CATIPAY, and  
DAVID A. ALDRICH,

Defendants.

Case No. 2:16-cv-02594-TJH (PDx)

**RECEIVER AND PLAINTIFF  
SEC'S JOINT STATUS REPORT**

Judge: Hon. Terry J. Hatter, Jr.  
Ctrm.: 9B

1 **I. PROCEDURAL BACKGROUND**

2 The SEC filed its complaint against three defendants: PLCMGMT LLC,  
3 dba Prometheus Law (“Prometheus”), James A. Catipay (“Catipay”), and David A.  
4 Aldrich (“Aldrich”) on April 15, 2016 (see ECF No. 1), asserting claims for  
5 violations of Sections 5(a) and (c) and 17(a) of the Securities Act of 1933  
6 (“Securities Act”), 15 U.S.C. §§ 77e, q(a), and Sections 10(b) and 15(a) of the  
7 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78j(b), 78o(1),  
8 and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5. On April 18, 2016, the SEC  
9 filed a motion for preliminary injunction, seeking appointment of a receiver, asset  
10 freezes and other ancillary relief. *See* ECF No. 7. On April 26, 2016, the Court  
11 permanently appointed receiver Thomas McNamara (“the “Receiver”) over  
12 Prometheus by consent. *See* ECF No. 20.

13 On May 27, 2016, the Court entered judgment against defendant Catipay, by  
14 his consent, providing injunctive relief. *See* ECF Nos. 37, 42. On December 7,  
15 2017, the Court entered final judgment, including injunctive and monetary relief  
16 against defendant Catipay, following the SEC’s motion. *See* ECF No. 107. On  
17 September 15, 2016, the Court entered final judgment against defendant Aldrich,  
18 by consent, for both injunctive and monetary relief. *See* ECF No. 70. Both of the  
19 individual defendants pled guilty in parallel criminal actions and were sentenced to  
20 jail time and monetary relief. *See USA v. James Catipay*, Case No. 3:16-cr-02453-  
21 JAH (S.D. Cal.) (“Catipay ECF”), ECF Nos. 5-6, 12, 26; *USA v. David Aldrich*,  
22 Case No. 3:16-cr-02688-JAH (S.D. Cal.) (“Aldrich ECF”), ECF Nos. 4-5, 10, 21,  
23 26.

24 On October 28, 2019, the SEC filed the Receiver’s consent to injunctive  
25 relief on behalf of the sole remaining defendant, Prometheus. *See* ECF No. 126.  
26 The consent states that the monetary relief against the receivership entity, if any,  
27 will be determined by noticed motion. The judgment was entered by the Court on  
28 October 31, 2019. *See* ECF No. 128. With the entry of the consent judgment

1 against Prometheus, the liability of all three defendants has now been resolved, as  
2 well as the injunctive relief against all three defendants. The monetary relief  
3 against defendants Catipay and Aldrich has been previously determined by the  
4 Court, and thus the sole remaining issue to be determined in the litigation is the  
5 monetary relief, if any, against the receivership entity.

## 6 **II. CURRENT STATUS OF THE ACTION**

7 As reflected in the many status reports filed by the Receiver, the most  
8 significant asset held by the Receivership Estate is its interest in the attorneys' fees  
9 generated from a mass tort case portfolio (primarily involving a drug known as  
10 Risperdal), the cases for which were sourced with Prometheus investors' funds.  
11 The reason this receivership remains open is to wait for the resolution of the cases  
12 within this mass tort case portfolio. The Receiver has no control over the outcome  
13 of these cases as the Estate is not a client of the law firm, Paglialunga & Harris  
14 ("P&H"), which is handling the portfolio; the Receivership Estate's sole interest in  
15 the outcome of these cases is its entitlement to a percentage of the fees collected by  
16 P&H as a result of the cases' resolution.

17 The Receiver has remained in contact with P&H and attorneys from another  
18 firm, Sanders Phillips Grossman (the "Sanders Firm," which previously handled a  
19 part of the Risperdal settlement negotiations and still manages a handful of other  
20 tort cases), throughout this process and has, at a high-level, been kept apprised of  
21 ongoing negotiations regarding the settlement of the Risperdal cases, which  
22 represent the vast majority of the cases within the portfolio.

23 The Receiver first reported on the case portfolio in late 2016. *See* ECF  
24 No. 71. The cases progressed slowly through the system, and it was not until  
25 February 2020, that the Receiver was first informed that settlement discussions  
26 were occurring between the parties on the Risperdal cases, though counsel at the  
27 Sanders Firm expressed that he believed the prospects for a settlement were low at  
28 that time. *See* ECF No. 130 at 2. In late 2020, the Receiver reported to the Court

1 that settlement negotiations were progressing, and a written offer was expected  
2 soon. ECF No. 149 at 2. The Receiver was able to report in June 2021 that a  
3 settlement had been reached as to the Risperdal cases in the Prometheus mass tort  
4 case portfolio, though the settlement amount was substantially lower than  
5 previously anticipated. ECF No. 156 at 2-3.<sup>1</sup> In his next report to the Court, the  
6 Receiver conveyed P&H counsel's estimate that distributions might be made on  
7 the Risperdal settlements within 60 to 90 days (*i.e.*, by the end of 2021). ECF  
8 No. 162 at 2-3.

9       Unfortunately, and as the Court is aware, this prediction dramatically  
10 underestimated the amount of time it would take to finalize the settlement. The  
11 updates from counsel for P&H, Jim Harris, have continued to push out the funding  
12 date for the Risperdal settlements; the Receiver has conveyed Harris's estimate to  
13 the Court. Harris initially projected that payments could begin in roughly June  
14 2022. *See* ECF No. 168 at 2-3. That did not occur. The Receiver has since  
15 regularly requested updates from Harris, who has provided only modest  
16 information about the progression of the Risperdal settlement funding.

17       Throughout this process, when Harris and P&H have provided timelines for  
18 payments they have been consistently and substantially inaccurate. *See, e.g.*, ECF  
19 No. 162 at 2-3. However, since the filing of the last Joint Status Report (ECF No.  
20 178), the receivership has received payments from P&H totaling \$114,765.86 and  
21 representing 58 Risperdal cases for which they had received signed settlement  
22 statements. Last evening, Harris indicated only 28 cases remain in process, and  
23 these are in the final phase (lien resolution, client signature, etc.). He estimated  
24 that these last cases will result in payments totaling \$52,040.53 to the receivership  
25 estate.

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28 <sup>1</sup> The settlement figure for the Prometheus portfolio was confidential and not shared  
with the Receiver.



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**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all participants in the case who are registered CM/ECF users.

/s/ Logan D. Smith  
Logan D. Smith