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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 (FFMx)

**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 Dkt. 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* Dkt. No. 7. On April 26, 2016, the Court
11 permanently appointed receiver Thomas McNamara (“the “Receiver”) over
12 Prometheus by consent. *See* Dkt. No. 20.

13 On May 27, 2016, the Court entered judgment against defendant Catipay, by
14 his consent, providing injunctive relief. *See* Dkt. 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* Dkt. 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* Dkt. 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 Dkt.”), Dkt. Nos. 5-6, 12, 26; *USA v. David Aldrich*,
22 Case No. 3:16-cr-02688-JAH (S.D. Cal.) (“Aldrich Dkt.”), Dkt. 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* Dkt. 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* Dkt. 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 numerous 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 was lower than previously anticipated. ECF
5 No. 156 at 2-3.¹ In his next report to the Court, the Receiver conveyed P&H
6 counsel's estimate that distributions might be made on the Risperdal settlements
7 within 60 to 90 days (*i.e.*, by the end of 2021). ECF No. 162 at 2-3.

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

16 Throughout this process, when Harris and P&H have provided timelines for
17 payments they have been consistently and substantially inaccurate. *See, e.g.*, ECF
18 No. 162 at 2-3. As was the case for the last status report, we asked Harris to
19 prepare a statement directly outlining for the Court the posture of the remaining
20 cases. *See* Declaration of Thomas W. McNamara, Ex. 1. In his statement, Harris
21 indicates substantial progress on lien resolution and client agreement on settlement
22 distribution.

23 Once payments are received from Harris and P&H, the Receiver intends to
24 promptly proceed with a final distribution to the investors and ask the Court to
25 terminate the receivership.

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

1 Among the SEC’s considerations in seeking monetary relief is the status of
2 monies returned to investors, as compared with the amounts of investor losses.
3 Given that the amounts returnable to investors through the receivership remain to
4 be determined, the SEC anticipates awaiting further distributions prior to
5 determining whether to seek any monetary relief against the receivership entity, or
6 whether to forego such relief based on the distributions made to investors through
7 the receivership.

8 Dated: January 10, 2024

MCNAMARA SMITH LLP

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By: /s/ Logan D. Smith
Logan D. Smith
Attorneys for the Receiver,
Thomas W. McNamara

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SECURITIES AND EXCHANGE
COMMISSION

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By: /s/ Kathryn C. Wanner
Kathryn C. Wanner
David M. Rosen

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LOCAL RULE 5-4.3.4(a)(2)(i) CERTIFICATION

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19 Pursuant to L.R. 5-4.3.4(a)(2)(i), I, Logan D. Smith, attest that all signatories
20 identified above, and on whose behalf the filing is submitted, concur in the filing’s
21 content, and have authorized the filing.

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By: /s/ Logan D. Smith
Logan D. Smith

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CERTIFICATE OF SERVICE

I hereby certify that on January 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