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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

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

17 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

18
19 **I. PROCEDURAL BACKGROUND**

20 The SEC filed its complaint against three defendants: PLCMGMT LLC,
21 dba Prometheus Law (“Prometheus”), James A. Catipay (“Catipay”), and David A.
22 Aldrich (“Aldrich”) on April 15, 2016 (*see* ECF No. 1), asserting claims for
23 violations of Sections 5(a) and (c) and 17(a) of the Securities Act of 1933
24 (“Securities Act”), 15 U.S.C. §§ 77e, q(a), and Sections 10(b) and 15(a) of the
25 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78j(b), 78o(1),
26 and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5. On April 18, 2016, the SEC
27 filed a motion for preliminary injunction, seeking appointment of a receiver, asset
28 freezes and other ancillary relief. *See* ECF No. 7. On April 26, 2016, the Court

1 permanently appointed receiver Thomas McNamara (“the “Receiver”) over
2 Prometheus by consent. *See* ECF No. 20.

3 On May 27, 2016, the Court entered judgment against defendant Catipay, by
4 his consent, providing injunctive relief. *See* ECF Nos. 37, 42. On December 7,
5 2017, the Court entered final judgment, including injunctive and monetary relief
6 against defendant Catipay, following the SEC’s motion. *See* ECF No. 107. On
7 September 15, 2016, the Court entered final judgment against defendant Aldrich,
8 by consent, for both injunctive and monetary relief. *See* ECF No. 70. Both of the
9 individual defendants pled guilty in parallel criminal actions and were sentenced to
10 jail time and monetary relief. *See USA v. James Catipay*, Case No. 3:16-cr-02453-
11 JAH (S.D. Cal.), ECF Nos. 5-6, 13, 26-27; *USA v. David Aldrich*, Case No. 3:16-
12 cr-02688-JAH (S.D. Cal.), ECF Nos. 9-10, 12, 19, 21.

13 On October 28, 2019, the SEC filed the Receiver’s consent to injunctive
14 relief on behalf of the sole remaining defendant, Prometheus. *See* ECF No. 126.
15 The consent states that the monetary relief against the receivership entity, if any,
16 will be determined by noticed motion. The judgment was entered by the Court on
17 October 31, 2019. *See* ECF No. 128. With the entry of the consent judgment
18 against Prometheus, the liability of all three defendants has now been resolved, as
19 well as the injunctive relief against all three defendants. The monetary relief
20 against defendants Catipay and Aldrich has been previously determined by the
21 Court, and thus the sole remaining issue to be determined in the litigation is the
22 monetary relief, if any, against the receivership entity.

23 **II. CURRENT STATUS OF THE ACTION**

24 As reflected in the many status reports filed by the Receiver, the most
25 significant asset held by the Receivership Estate is its interest in the attorneys’ fees
26 generated from a mass tort case portfolio (primarily involving a drug known as
27 Risperdal), the cases for which were sourced with Prometheus investors’ funds.
28 The reason this receivership remains open is to wait for the resolution of the cases

1 within this mass tort case portfolio. The Receiver has no control over the outcome
2 of these cases as the Estate is not a client of the law firm, Paglialunga & Harris
3 (“P&H”), which is handling the portfolio; the Receivership Estate’s sole interest in
4 the outcome of these cases is its entitlement to a percentage of the fees collected by
5 P&H as a result of the cases’ resolution.

6 The Receiver has remained in contact with Jim Harris of P&H throughout
7 this process and has, at a high-level, been kept apprised of ongoing negotiations
8 regarding the settlement of the Risperdal cases, which represented the vast
9 majority of the cases in the portfolio.¹ As of the last Joint Status Report in April
10 (ECF No. 183), Mr. Harris reported that only 28 cases remain in process, and these
11 were in the final phase (lien resolution, client signature, etc.). He estimated that
12 these last cases will result in payments totaling \$52,040.53 to the Receivership
13 Estate.

14 In late July, P&H forwarded \$31,220.26, representing the settlement
15 proceeds from 14 of the cases. On September 17, 2024, Mr. Harris indicated that
16 the payment of \$22,651.73 for the final 16 cases will be forwarded to the Receiver
17 next week. *See* Exhibit 1.

18 Once the final payments are received from P&H, the Receiver intends to
19 promptly proceed with a final distribution to the investors and will likely consent
20 to the entry of a final judgment against the receivership estate that agrees to the
21 monetary relief, if any, the Court should impose against the receivership entity.

22 _____
23 ¹ In previous Joint Reports, the Receiver detailed the explanations offered by Mr.
24 Harris and P&H for numerous delays and missed deadlines. *See* Plaintiff SEC and
25 Receiver’s Joint Status Report filed October 19, 2019 (ECF No. 127); Plaintiff
26 SEC and Receiver’s Joint Status Report filed June 8, 2020 (ECF No. 140); Plaintiff
27 SEC and Receiver’s Joint Status Report filed December 4, 2020 (ECF No. 149);
28 Plaintiff SEC and Receiver’s Joint Status Report filed June 11, 2021 (ECF
No. 156); Plaintiff SEC and Receiver’s Joint Status Report filed September 30,
2021 (ECF No. 162); Plaintiff SEC and Receiver’s Joint Status Report filed March
16, 2022 (ECF No. 168); Receiver and Plaintiff SEC’s Joint Status Report filed
March 9, 2023 (ECF No. 176); Receiver and Plaintiff SEC’s Joint Status Report
filed January 10, 2024 (ECF No. 178); and Receiver and Plaintiff SEC’s Joint
Status Report filed April 10, 2024 (ECF No. 183).

1 Once the final judgment is entered, the Receiver will ask the Court to terminate the
2 receivership.²

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

10 Dated: September 19, 2024

MCNAMARA SMITH LLP

11
12 By: /s/ Logan D. Smith
13 Logan D. Smith
14 Attorneys for the Receiver,
15 Thomas W. McNamara

16 SECURITIES AND EXCHANGE
17 COMMISSION

18 By: /s/ Kathryn C. Wanner
19 Kathryn C. Wanner
20 David M. Rosen

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

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

25
26 By: /s/ Logan D. Smith
27 Logan D. Smith

28 ² The Receiver anticipates distributing approximately \$360,000 to \$370,000 in the final distribution.

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CERTIFICATE OF SERVICE

I hereby certify that on September 19, 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