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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

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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'S FIFTH STATUS  
REPORT AND ACCOUNTING**

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

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**RECEIVER’S FIFTH STATUS REPORT  
AND ACCOUNTING**

As the Court-appointed Receiver of Defendant PLCMGMT LLC, dba Prometheus Law (“Prometheus”),<sup>1</sup> I submit this Fifth Status Report and Accounting.

**I. First and Second Interim Distributions Completed**

On June 20, 2018, the Court approved the “Procedures for the Receiver’s Final Determination of Investor Claims and Pro Rata Distributions to Investors with Approved Claims.” ECF No. 114. We immediately implemented the procedures. Specifically, on June 21, we posted the Preliminary Schedule of Approved Investor Claims. The next day, we sent the Notice to Prometheus Investors via U.S. mail and email to investors we identified to have suffered a net stripped capital loss or any investor who asserted a claim. Investors contacted us to provide updated addresses and inquired about the specific amount they would receive. We did not receive any objections to the Preliminary Schedule. Accordingly, the Final Schedule of Investor Claims was posted on July 19. Checks for the first interim distribution were mailed on July 24. Investors received a distribution equal to 9% of their approved claim. A total of \$1,056,660.24 was disbursed.

As a result of the receipt of settlement proceeds and clawback payments, we made a second distribution on August 23. Investors received a distribution equal to 2% of their approved claim – a total of \$234,813.38. The amount of funds ultimately available for future distributions is primarily dependent from this point forward on lead counsel’s success in recovering on the case portfolio.

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<sup>1</sup> I was appointed by the Court’s Preliminary Injunction entered April 26, 2016 (ECF No. 20).

1     **II. Receivership Accounting**

2             The receivership bank account currently has a cash balance of \$320,142.78  
3 but has payables of \$181,707.21, which, provided the Court approves the next fee  
4 application, will leave a balance of \$138,435.57.<sup>2</sup> Attached as Exhibit A is the  
5 SEC Standardized Fund Accounting Report for the receivership period from  
6 appointment on April 26, 2016 through August 24, 2018. That report indicates  
7 total receipts of \$2,072,970.59, less total disbursements of \$1,752,827.81, resulting  
8 in net cash of \$320,142.78.

9     **III. Receivership Assets**

10     **A. Clawback Claims**

11             1.     Sales Agents

12             Clawback claims against Prometheus sales agents have contributed  
13 \$337,489.20 to the receivership to date. For the clawback lawsuit against the  
14 twenty sales agents with whom we could not settle pre-litigation,<sup>3</sup> eleven  
15 defendants settled after the complaint was filed, one defendant was dismissed for  
16 improper venue and defaults were entered against eight defendants. The Receiver  
17 will seek formal Default Judgments against the eight remaining defendants.

18             2.     Prometheus Capital Partners

19             As previously reported, we settled the lawsuit filed against PCP<sup>4</sup> which  
20 included cancellation of the \$2.9 million Deed of Trust on the Flower Street  
21 Condo, clearing the way for the sale of the condo. PCP also agreed to return its  
22 \$119,000 commission, which PCP has satisfied now.

23  
24             <sup>2</sup> A proposed fee application has been submitted to the SEC for their review.  
25 Provided the SEC does not object to the fees and expenses, the application will be  
presented to the Court.

26             <sup>3</sup> *McNamara v. Allen, et al.*, (C.D. Cal.) Case No. 2:17-cv-02858-TJH  
27 (FFMx).

28             <sup>4</sup> *McNamara v. Prometheus Capital Partners, LLC*, (C.D. Cal.) Case No.  
2:17-cv-04821-TJH (FFMx).

1                   3.     Catipay's Family and Friends

2             The third clawback lawsuit<sup>5</sup> seeks recovery of approximately \$1.3 million  
3     disbursed to Catipay's family and friends (parents, sister, brother, ex-wife, and  
4     former girlfriend). Shortly after the complaint was served on Catipay's sister, we  
5     reached a settlement of \$21,112 – 75% of our claim against her. She has paid  
6     \$14,207.16 thus far. Catipay's parents and ex-wife filed for bankruptcy in Los  
7     Angeles County. Our bankruptcy counsel obtained a default judgment against  
8     Catipay's ex-wife in the amount of \$792,218. This judgment is nondischargeable.  
9     Catipay's brother has not responded to the lawsuit against him and we will seek a  
10    default judgment. For Catipay's former girlfriend, the Court granted summary  
11    judgment against her, finding that Catipay made payments totaling \$327,333.94 for  
12    her benefit.

13                   **B.     Case Portfolio**

14             As previously reported, the primary potential asset of the receivership  
15    remains the case portfolio of mass tort cases generated by Prometheus-funded  
16    marketing. But, there is limited certainty or predictability as to the ultimate value  
17    of that portfolio. To date, the receivership has received \$287,595.24 as its fee  
18    share on settlements of 28 non-Risperdal cases.

19             The Receiver requested an accounting from Paglialunga & Harris ("P&H")  
20    and its marketing affiliate Justice Roundtable ("JRT"). Prometheus disbursed  
21    \$2,525,000 to P&H and JRT prior to the appointment of a receiver. After  
22    conducting a comprehensive review of P&H/JRT's expenditures, we confirmed  
23    that the vast majority of the funds (\$2,375,133) was properly expended for  
24    marketing and related services by P&H/JRT. We believe there was a deficit of  
25    \$149,867, which was paid to P&H/JRT but was not directly used for marketing.  
26    P&H/JRT vigorously disagreed with our conclusion and contended the funds were

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28             <sup>5</sup> *McNamara v. Catipay, et al.*, (C.D. Cal.) Case No. 2:17-cv-04347-TJH (FFMx).

1 spent on marketing. In addition, P&H/JRT believed they were entitled to credit for  
2 other internal expenses necessary for the intake of cases, which they contend  
3 should have been rightfully included in marketing expenses, but which the  
4 Receiver refused to credit. To resolve the disagreement and settle the issues, the  
5 Receiver and P&H/JRT agreed that P&H would allocate 100 additional Risperdal  
6 cases, which were in the P&H portfolio, to the Catipay portfolio. That allocation  
7 has since been completed and, as a result of the settlement, the case portfolio  
8 currently contains 2,378 cases relating to 11 different drugs – 2,304 Risperdal  
9 cases, 56 cases covered by mass tort settlements (i.e., Actos (20 cases), Nuvaring  
10 (4 cases), Pradax (3 cases), Topomax (1 case), TVM (23 cases), Tylenol (2 cases),  
11 and Yaz (3 cases)) and 18 other unsettled cases (i.e., IUD (2 cases), SSRI (15  
12 cases), and Xarelto (1 case)). *See* ECF No. 113 at pages 8-9.

13 Dated: August 27, 2018

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15 By: /s/ Thomas W. McNamara  
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17 Receiver  
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**CERTIFICATE OF SERVICE**

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I hereby certify that on August 27, 2018, 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/ Edward Chang  
Edward Chang