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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **Western Division**

12 **SECURITIES AND EXCHANGE**
13 **COMMISSION,**

14 Plaintiff,

15 vs.

16 **PLCMGMT LLC, dba**
17 **PROMETHEUS LAW, JAMES A.**
18 **CATIPAY, and DAVID A.**
ALDRICH,

19 Defendants.
20

Case No. 2:16-cv-02594-TJH-FFM

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

1 **I. PROCEDURAL BACKGROUND**

2 Plaintiff Securities and Exchange Commission (“SEC”) filed its complaint
3 against three defendants: PLCMGMT LLC, dba Prometheus Law (“Prometheus”),
4 James A. Catipay (“Catipay”), and David A. Aldrich (“Aldrich”) on April 15, 2016
5 (*see* Dkt. No. 1), asserting claims for violations of Sections 5(a) and (c) and 17(a) of
6 the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77e, q(a), and Sections
7 10(b) and 15(a) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C.
8 §§ 78j(b), 78o(1), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5. The same
9 day that it filed the complaint, the SEC filed a motion for preliminary injunction,
10 seeking appointment of a receiver, asset freezes and other ancillary relief. *See* Dkt.
11 No. 7. On April 26, 2016, the Court permanently appointed receiver Thomas
12 McNamara (“the “Receiver”) over Prometheus by consent. *See* Dkt. No. 20. On
13 May 27, 2016, the Court entered judgment against defendant Catipay, by his consent,
14 providing injunctive relief. *See* Dkt. Nos. 37, 42. On December 7, 2017, the Court
15 entered final judgment, including injunctive and monetary relief against defendant
16 Catipay, following the SEC’s motion. *See* Dkt. No. 107. On September 15, 2016, the
17 Court entered final judgment against defendant Aldrich, by consent, for both
18 injunctive and monetary relief. *See* Dkt. No. 70. Both of the individual defendants
19 pled guilty in parallel criminal actions and were sentenced to jail time and monetary
20 relief. *See USA v. James Catipay*, Case No. 3:16-cr-02453-JAH (S.D. Cal.)
21 (“Catipay Dkt.”), Dkt. Nos. 5-6, 12, 26; *USA v. David Aldrich*, Case No. 3:16-cr-
22 02688-JAH (S.D. Cal.) (“Aldrich Dkt.”), Dkt. Nos. 4-5, 10, 21, 26.

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

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

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

6 As reflected in the numerous status reports filed by the Receiver, the most
7 significant asset held by the Receivership Estate is its interest in a mass tort case
8 portfolio, the cases for which were sourced with Prometheus investors' funds. For a
9 long while, the primary remaining task of this receivership has been to wait for the
10 resolution of the cases within this mass tort case portfolio. The Receiver has no
11 control over the outcome of these cases as it is not a client of the law firm,
12 Paglialunga & Harris ("P&H"), which is handling the portfolio; the Receivership
13 Estate's sole interest in the outcome of these cases is its entitlement to a percentage of
14 the fees collected by P&H as a result of the cases' resolution. Although the
15 Receiver's ability to evaluate the dollar value of these cases has been limited
16 (attorney-client privilege and confidentiality prevent P&H from disclosing much
17 about the viability of its clients' claims), the Receiver has remained in contact with
18 P&H and Sanders Phillips Grossman (the "Sanders Firm") throughout this process
19 and has, at a high-level, been kept apprised of ongoing negotiations regarding the
20 settlement of the Risperdal cases, which represent the vast majority of the cases
21 within the portfolio.

22 Since the last joint report, the Receiver has continued to request updates from
23 P&H on the settlement status of the Risperdal and other cases in the mass tort
24 portfolio. Counsel for P&H, Jim Harris, recently reported that the Risperdal
25 settlement is progressing with the help of the special master. A list of cases that will
26 not qualify for the settlement has been generated and P&H is now working with the
27 special master to allocate funds to the qualifying clients; once a sufficient number of
28 clients have accepted the settlement offer, P&H will begin to receive its attorney's

1 fees from the settlement, out of which the Receivership will be paid. P&H estimates
2 that rolling payments can begin to be made to the Receivership in 60 days. But this
3 timeline should be taken with a grain of salt, as the time projections provided to date
4 by Harris have proven to be overly optimistic. In addition, in this instance Harris has
5 warned that due to the nature of the Risperdal client population (whose psychological
6 conditions necessitated a Risperdal prescription in the first instance), the clients have
7 tended to be uncooperative and difficult to locate, which could delay the settlement
8 process. With regards to the small number of remaining non-Risperdal cases in the
9 portfolio (of which there are 22, per P&H), more than three-quarters of the cases were
10 referred to Girardi Keese and the Receiver has been informed that the remainder,
11 which the Sanders Firm has been monitoring, are probably not viable.

12 P&H previously informed the Receiver that more than 120 cases in the mass
13 tort portfolio had been referred to Girardi Keese before the firm's bankruptcy, the
14 vast majority of them Risperdal cases (which have generally turned out to be of
15 modest value in the settlements negotiated by P&H). Harris reports that he has
16 continued to attempt to contact the bankruptcy trustee, but has received no updates on
17 the cases. The Receiver does not expect this to change at any point in the near future,
18 given the scale of the Girardi Keese bankruptcy, the criminal investigation of Thomas
19 Girardi and others, and the small number of cases (relative to the scale of Girardi
20 Keese's mass tort practice) that P&H assigned to the firm. If the remainder of the
21 mass tort portfolio is resolved before the Girardi Keese bankruptcy, as the Receiver
22 expects it to be, he will likely move the Court for permission to abandon the
23 Receivership's interest in the cases so that the Receivership can be terminated and a
24 final distribution made to the investors.

25 As previously reported to the Court, the Receiver has been engaged in efforts
26 to sell the unsatisfied judgments from the clawback actions he brought against
27 Prometheus sales agents and Catipay's family and friends, which total roughly \$2.3
28 million. *See McNamara v. Allen, et al.*, Case No. 2:17-cv-0285-TJH (FFMx), ECF

1 No. 96 (C.D. Cal. Apr. 26, 2019); *McNamara v. Catipay, et al.*, Case No. 2:17-cv-
2 04347-TJH (FFMx), ECF Nos. 46, 50, and 56 (C.D. Cal.); *McNamara v. Palacio*,
3 Case No. 2:18-ap-01056-VZ, ECF No. 24 (Bankr. C.D. Cal. July 13, 2018).
4 Unfortunately, there has been little to no interest in the portfolio of judgments. This
5 informed the Receiver’s calculus when he decided to seek the Court’s approval of a
6 settlement with one of the judgment debtors, Michael McNamara, in a motion filed
7 with the Court on March 15, 2022. *See* ECF No. 167. The Receiver will continue to
8 market the remaining unsatisfied judgments, but he is not optimistic that the
9 judgments can be sold for anything approaching their on-paper value.

10 Among the SEC’s considerations in seeking monetary relief is the status of
11 monies returned to investors, as compared with the amounts of investor losses. Given
12 that the amounts returnable to investors through the receivership remain to be
13 determined, the SEC anticipates awaiting further distributions prior to determining
14 whether to seek any monetary relief against the receivership entity, or whether to
15 forego such relief based on the distributions made to investors through the
16 receivership.

17 Dated: March 16, 2022

18 /s/ Amy Jane Longo
19 Amy Jane Longo
20 David M. Rosen
21 Attorneys for Plaintiff
22 Securities and Exchange Commission

23 /s/ Logan D. Smith
24 Logan D. Smith
25 Attorneys for Thomas W. McNamara,
26 Receiver
27
28

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

Pursuant to L.R. 5-4.3.4(a)(2)(i), I, Amy Jane Longo, attest that all signatories identified above, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

/s/ Amy Jane Longo
Amy Jane Longo

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PROOF OF SERVICE

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION,
444 S. Flower Street, Suite 900, Los Angeles, California 90071
Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

On March 16, 2022, I caused to be served the document entitled **PLAINTIFF SEC’S AND RECEIVER’S JOINT STATUS REPORT** on all the parties to this action addressed as stated on the attached service list:

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency’s practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

PERSONAL DEPOSIT IN MAIL: By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

EXPRESS U.S. MAIL: Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

UNITED PARCEL SERVICE: By placing in sealed envelope(s) designated by United Parcel Service (“UPS”) with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

E-FILING: By causing the document to be electronically filed via the Court’s CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

FAX: By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: March 16, 2022

/s/ Amy Jane Longo
Amy Jane Longo

1 **SEC v. PLCMGMT LLC dba Prometheus Law, et al.**
2 **United States District Court—Central District of California**
3 **Case No. 2:16-cv-02594-TJH-FFM**
4 **LA-4552**

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