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11 *Attorneys for Court-Appointed Monitor*

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 FEDERAL TRADE COMMISSION,

15 Plaintiff,

16 v.

17 AMG SERVICES, INC., et al.,

18 Defendants, and

19 PARK 269 LLC, et al.,

20 Relief Defendants.
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Case No. 2:12-cv-00536-GMN-VCF

**MONITOR'S TENTH INTERIM REPORT
AND ACCOUNT**

TENTH INTERIM REPORT AND ACCOUNT

Pursuant to Section XVII of the Order Appointing Monitor and Freezing Assets (the “Monitor Order,” ECF No. 1099), directing the Monitor to report at intervals of no less than 90 days, in my capacity as Monitor, I submit this Interim Report and Account which covers the activities of the Monitor from April 27, 2019 through July 26, 2019.

1. Summary of the Monitor’s Operations

a. David Feingold Settlement

As previously reported, David Feingold; Dylan, Jagger Investment, Co. Inc.; Homeowners Realty, LLC; UMR Building LLC; and United Material Recovery, LLC breached their settlement agreement. *See* ECF Nos. 1188, 1191, 1213-1217 and 1228. We continue to maintain insurance for the recycling plant and our Ohio counsel continues to prosecute the foreclosure proceedings. On July 25, 2019, a Sheriff’s sale was held on July 25, 2019 with a minimum bid of \$200,000 for the recycling plant. Since no one submitted a bid, the property will be re-appraised and a new minimum bid will be set. In the near future, another Sheriff’s sale will be held with a lower minimum bid.

We are nearing the conclusion of our investigation into some late 2018-early 2019 transactions by David Feingold that appear to be in contempt of this Court’s orders. We are in settlement discussions with several parties to resolve potential litigation involving what appear to be fraudulent transfers intended to favor Mr. Feingold and his friends at the expense of the Monitorship Estate. If settlement discussions do not result in satisfactory resolutions, we anticipate needing to file one or more proceedings against Mr. Feingold and likely others in order to recover Monitorship Estate assets. Our efforts to retrieve Monitorship Estate assets from Mr. Feingold and related parties are ongoing.

b. Team Property & Investment, LLC Mortgages

Team Property & Investment, LLC (“Team Property”) continues to make their monthly payments on loans they obtained from Monitor Entities. To date, Team Property has paid \$121,242.24 to the Monitorship Estate.

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c. Leawood, Kansas Property

As previously reported, Kim Tucker moved out of her and Scott Tucker's Leawood, Kansas house, abandoned personal property in the house, and relinquished three vehicles. Mrs. Tucker agreed that the Monitor may sell the 2010 Land Rover LR4 and the personal property at the Leawood house. After reviewing multiple proposals, the Monitor engaged Brown Button LLC ("Brown Button") to conduct an estate sale. Brown Button staged the contents of the house, determined the appropriate price for the items, and advertised the estate sale. The advertising resulted in significant attention, including nearly 17,000 visitors to the estate sale website (<https://brownbutton.com/leawood/designer-hallbrook-estate-sale-june-28/>), more than 19,000 visitors to other estate sale websites advertising the sale, and several stories in the local media (e.g., <https://www.kmbc.com/article/convicted-payday-loan-moguls-estate-sale-brings-in-hundreds-of-people/28225658>).

Brown Button conducted the estate sale on June 28-30, 2019. Approximately 1,100 individuals attended the estate sale with more \$40,000 in sales in the first three hours. The gross receipts for the three day estate sale was \$85,625.89. The Monitorship Estate netted \$53,629.30 after Brown Button's 35% commission and other fees (i.e., merchant processing fees, carpet protection, and trash removal). After the estate sale, Brown Button donated the few remaining items that did not sell, removed trash and returned the Leawood, Kansas house to the IRS in broom clean condition.

d. Financial Institutions

Pursuant to Section II(G)(1) of the Monitor Order, the asset freeze terminated if, among other things, the Ninth Circuit issued a mandate affirming the Court's order. ECF No. 1099 at page 8. On December 3, 2018, the Ninth Circuit issued its opinion affirming the District Court's judgment. *FTC v. AMG Capital Mgmt., LLC*, 910 F.3d 417, 428 (9th Cir. 2018). Later, on June 28, 2019, the Ninth Circuit issued its mandate. *See* ECF No. 1247.

On July 10, 2019, the FTC sent letters to various financial institutions informing them that the asset freeze has lifted and directed them to transfer assets to the Monitor. To date, \$43,026.84 from previously frozen accounts was transferred to the Monitorship Estate.

1 We expect additional transfers in the future.

2 **e. Collection Lawsuits**

3 **i. WhamTech**

4 WhamTech, Inc. (“WhamTech”) agreed to pay \$3 million to satisfy its outstanding loans
5 owed to Black Creek Capital Corporation. *See* ECF No. 1240. WhamTech continues to make
6 settlement payments and has paid \$1 million to the Monitorship Estate thus far.

7 **ii. Stealth Power**

8 Stealth Power, LLC (“Stealth”) has admitted that it borrowed money from Westfund
9 LLC, but disputes the amount owed. *See McNamara v. Stealth Power, LLC*, Case No. 2:18-cv-
10 01813-GMN-NJK, ECF No. 11 (D. Nev. Nov. 15, 2018). After the Monitor propounded
11 discovery requests on Stealth, the parties have exchanged information and met twice in person to
12 attempt to find a resolution. While the parties have narrowed the scope of disputed issues and
13 limited the need for factual discovery, the parties required additional time to exchange damages
14 calculations and conduct two depositions. The Court recently granted the parties’ request to
15 extend the discovery cut-off date to October 11, 2019. *See Stealth*, ECF No. 21.

16 **iii. Kendallwood and Milan Loans**

17 In the Monitor’s suit against United Resource Holding, LLC, Kendallwood Senior
18 Properties, LLC, Milan Development Group, LLC, John Julian, Linda Julian, and Paul Thoma on
19 outstanding loans, trial is scheduled for October 7, 2019. The parties have exchanged
20 preliminary witness and exhibit lists. Discovery concluded and the Monitor filed his motion for
21 summary judgment. The court will hear arguments on the Monitor’s motion for summary
22 judgment on July 31, 2019. *See McNamara v. United Resource Holdings, LLC, et al.*, Case No.
23 18CV03375 (Johnson County, KS). We expect that this case will be resolved via summary
24 judgment.

25 **f. Park 269 Aspen House**

26 As previously reported, the U.S. Attorney’s Office for the Southern District of New
27 York, FTC, and IRS agreed to have the Monitor sell the Aspen property. The Monitor selected
28 James Bineau and Anita Bineau of Coldwell Banker Mason Morse to sell the property, which is

1 currently listed for \$12.5 million ([https://www.masonmorse.com/real-estate/269-park-avenue-](https://www.masonmorse.com/real-estate/269-park-avenue-aspen-co-81611/158607/70367204)
 2 [aspen-co-81611/158607/70367204](https://www.masonmorse.com/real-estate/269-park-avenue-aspen-co-81611/158607/70367204)). There have been multiple advertisements in print
 3 publications and online (viewed by nearly 1,200 consumers) and four open houses attended by
 4 nearly 80 individuals, resulting in twelve showings and four offers. The Monitor accepted one
 5 offer, but the buyer cancelled after he discovered he could not expand the property and complete
 6 certain renovations.

7 **g. Lawsuit against Intercept Corporation, Bryan Smith, Craig Dresser,**
 8 **and Connie Mosier**

9 In response to the Monitor's suit against Intercept Corporation, Bryan Smith, Craig
 10 Dresser, and Connie Mosier, the defendants filed a motion to dismiss, which the Monitor
 11 opposed and to which the defendants replied. As of May 6, 2019, the motion to dismiss was
 12 fully briefed and ready for the Court's review. *See McNamara v. Intercept Corp., et al.*, Case
 13 No. 2:18-cv-02281-GMN-VCF, ECF Nos. 17, 20, 24 (D. Nev.). Defendants also filed a motion
 14 to stay discovery, which Judge Ferenbach granted. *See id.*, ECF No. 33. Judge Ferenbach's
 15 decision cited a concern with the scope of the Monitor's authority and because Judge Koppe
 16 denied a similar motion to stay discovery in *McNamara v. C. Hallinan, et al.* ("*C. Hallinan*"),
 17 Case No. 2:17-cv-02966-GMN-NJK, ECF No. 31 (D. Nev.), the Monitor intends to file a
 18 renewed motion to clarify the scope of his authority under the Monitor Order shortly to address
 19 the apparent discrepancy.

20 **h. Fraudulent Transfer Lawsuits**

21 The four fraudulent transfer lawsuits filed by the Monitor – *C. Hallinan*, Case No. 2:17-
 22 cv-02966-GMN-NJK, *McNamara v. L. Hallinan, et al.* ("*L. Hallinan*"), Case No. 2:17-cv-
 23 02967-GMN-PAL, *McNamara v. Patten, et al.* ("*Patten*"), Case No. 2:17-cv-02968-GMN-NJK,
 24 and *McNamara v. Selling Source, et al.*, Case No. 2:17-cv-2969-GMN-CWH – remain at varying
 25 stages. Additionally, discovery closed in the *C. Hallinan* and *L. Hallinan* cases, and the Monitor
 26 anticipates filing motions for summary judgment in the near future.

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1 **i. Clawback Targets**

2 Our investigation into other potential clawback targets is ongoing. We are also
3 continuing our efforts to locate additional assets and identify potential claims against third
4 parties.

5 **2. Monitorship Bank Accounts**

6 Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for
7 the period April 27, 2019 through July 26, 2019. During this time period, receipts were
8 \$427,677.63 (\$200,000 from WhamTech; \$103,138.20 from Park 269's bank account;
9 \$53,629.30 from Leawood, KS estate sale; \$43,026.84 from previously frozen bank accounts;
10 \$10,341 checks from various third parties; and \$17,542.29 money market account interest).
11 Disbursements were \$67,501.92, the largest components of which were legal fees (\$21,411.38),
12 Park 269's Aspen property expenses (\$11,935.55) and insurance (\$14,141), United Material
13 Recovery's Ohio recycling plant insurance (\$10,963.89) and Relativity hosting fees (\$8,801.65).
14 In aggregate, the monitorship bank accounts have a current balance of \$12,331,778.22.

15 Dated: July 29, 2019

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17 By: /s/ Thomas W. McNamara
Thomas W. McNamara, Monitor
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of July, 2019, pursuant to Fed. R. Civ. P. 5(b), I served via CM/ECF or delivered by email and mailing in the U.S. Mail a true and correct copy of the foregoing **MONITOR'S TENTH INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

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