

1 Abran E. Vigil (NV 7548)
vigila@ballardspahr.com
2 BALLARD SPAHR LLP
1980 Festival Plaza Drive, Suite 900
3 Las Vegas, Nevada 89135-2958
Tel.: 702-471-7000
4 Fax: 702-471-7070

5 Edward Chang (NV 11783)
echang@mcnamarallp.com
6 Sanjay Bhandari (*pro hac vice*)
sbhandari@mcnamarallp.com
7 Logan D. Smith (*pro hac vice*)
lsmith@mcnamarallp.com
8 MCNAMARA SMITH LLP
655 West Broadway, Suite 1600
9 San Diego, California 92101
Tel.: 619-269-0400
10 Fax: 619-269-0401

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.
21
22
23
24
25
26
27
28

Case No. 2:12-cv-00536-GMN-VCF

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

1 **b. Team Property & Investment, LLC Mortgages**

2 Team Property & Investment, LLC (“Team Property”) continues to make their monthly
3 payments on loans they obtained from Monitor Entities. To date, Team Property has paid
4 \$133,578.24 to the Monitorship Estate.

5 **c. Vehicles**

6 In September 2019, counsel for one of Scott Tucker’s former employees contacted our
7 office and reported that Scott Tucker had secretly stored two vehicles (a 2000 ERA Replica
8 Cobra 427 SC and a 2015 Ferrari 458 Speciale) at the employee’s house. After some discussion,
9 the employee agreed to turn over the vehicles to the Monitor. The Monitor recovered and stored
10 these vehicles, which will be sold in the future.

11 Also, as previously reported, Kim Tucker agreed the Monitor could sell the 2010 Land
12 Rover LR4 previously used at the Tuckers’ Aspen house. The Monitorship Estate received
13 \$20,000 from the sale.

14 **d. Financial Institutions**

15 The Monitor Order provided a Collection Stay upon the timely filing of a notice of
16 appeal. *See* ECF No. 1099 at page 4. However, the Collection Stay dissolves under certain
17 conditions, including upon the Ninth Circuit’s issuance of a mandate affirming this Court’s
18 order. The Monitor Order provides that the frozen Assets can then be transferred to the Monitor.
19 *See* ECF No. 1099 at page 8.

20 On December 3, 2018, the Ninth Circuit issued its opinion affirming this Court’s
21 judgment. *FTC v. AMG Capital Mgmt., LLC*, 910 F.3d 417, 428 (9th Cir. 2018). Later, on
22 June 28, 2019, the Ninth Circuit issued its mandate. *See* ECF No. 1247. Accordingly, the
23 Collection Stay terminated. On July 10, 2019, the FTC sent letters to various financial
24 institutions informing them the asset freeze has lifted and directed that previously frozen assets
25 be transferred to the Monitor. Thus far, \$1,188,435.05 has been transferred by the financial
26 institutions to the Monitorship Estate.

27 ///

28 ///

e. Collection Lawsuits

i. WhamTech

While WhamTech, Inc. (“WhamTech”) agreed to pay \$3 million to satisfy its outstanding loans owed to Black Creek Capital Corporation, it has only paid \$1 million to date. *See* ECF No. 1240. WhamTech is currently in default. Unless WhamTech cures its default, we will file the confession of judgment, obtain a judgment, and proceed with collection efforts.

ii. Stealth Power

Stealth Power, LLC (“Stealth”) has admitted that it borrowed money from Westfund LLC, but disputes the amount owed. *See McNamara v. Stealth Power, LLC*, Case No. 2:18-cv-01813-GMN-NJK, ECF No. 11 (D. Nev. Nov. 15, 2018). Recently, the Monitor filed his motion for summary judgment. Stealth’s opposition is due on December 11. The Court also ordered the parties to a settlement conference on January 14, 2020.

iii. Kendallwood and Milan Loans

In the Monitor’s suit against United Resource Holding, LLC, Kendallwood Senior Properties, LLC, Milan Development Group, LLC, John Julian, Linda Julian, and Paul Thoma, the court granted summary judgment in favor of the Monitor on August 22, 2019. *See McNamara v. United Resource Holdings, LLC, et al.*, Case No. 18CV03375 (Johnson County, KS). On September 23, 2019, the court entered judgment in the amount of \$952,104.47 plus prejudgment interest of \$627,860.00 through July 1, 2019 and interest accruing since at \$528.95 per day against United Resource Holdings, LLC, Kendallwood Senior Properties, LLC, John T. Julian, Linda L. Julian and Paul K. Thoma; \$516,928.33 plus prejudgment interest of \$340,885.52 through July 1, 2019 and interest accruing since at \$287.18 per day against United Resource Holdings, LLC, Milan Development Group, LLC, John T. Julian and Paul K. Thoma; \$65,790.00 for attorneys’ fees; and \$1,604.57 for costs. Defendants subsequently filed a notice of appeal. We are currently evaluating collection options.

f. Park 269 Aspen House

As previously reported, the U.S. Attorney’s Office for the Southern District of New York, FTC, and IRS agreed to have the Monitor sell the Aspen property. The Monitor received

1 and accepted an initial offer, which the buyer later cancelled because he could not expand the
 2 property as he had hoped. A second offer was accepted, but the buyer cancelled during the
 3 contingency period. The broker continues to advertise and show the property. In the meantime,
 4 and in order to generate revenue during the winter ski season, the Monitor engaged a broker to
 5 market property for short term rentals.

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

8 In response to the Monitor's suit against Intercept Corporation, Bryan Smith, Craig
 9 Dresser, and Connie Mosier, the defendants filed a motion to dismiss, which the Monitor
 10 opposed and to which the defendants replied. As of May 6, 2019, the motion to dismiss was
 11 fully briefed and ready for the Court's review. *See McNamara v. Intercept Corp., et al.*, Case
 12 No. 2:18-cv-02281-GMN-VCF, ECF Nos. 17, 20, 24 (D. Nev.). Defendants also filed a motion
 13 to stay discovery, which Judge Ferenbach granted. *See id.*, ECF No. 33. However, Judge
 14 Ferenbach's decision cited a concern with the scope of the Monitor's authority, which has since
 15 been rendered moot by the Court's ruling in the related case of *McNamara v. L. Hallinan, et al.*
 16 ("*L. Hallinan*"), Case No. 2:17-cv-02967-GMN-NJK, ECF No. 115 (D. Nev.). Accordingly, the
 17 Monitor intends to file a motion to lift the stay shortly.

18 **h. Fraudulent Transfer Lawsuits**

19 The four fraudulent transfer lawsuits filed by the Monitor – *McNamara v. C. Hallinan*
 20 ("*C. Hallinan*"), Case No. 2:17-cv-02966-GMN-NJK, *L. Hallinan*, Case No. 2:17-cv-02967-
 21 GMN-PAL, *McNamara v. Patten, et al.* ("*Patten*"), Case No. 2:17-cv-02968-GMN-NJK, and
 22 *McNamara v. Selling Source, et al.* ("*Selling Source*"), Case No. 2:17-cv-2969-GMN-CWH –
 23 remain at varying stages. Since the last status report, this Court granted in part and denied in part
 24 the motion to dismiss pending in *L. Hallinan*. Both that case and *C. Hallinan* have fully-briefed
 25 cross-motions for summary judgment pending. In *Patten*, the case reopened and the parties
 26 stipulated to a new scheduling order, which has not yet been entered. Finally, *Selling Source*
 27 remains stayed pending resolution of the motion to dismiss.

28 ///

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 July 27, 2019 through November 25, 2019. During this time period, receipts were
8 \$1,306,948.53 (\$1,145,408.21 from previously frozen bank accounts; \$104,649.34 from the
9 Sheriff's sale of the Ohio recycling plant; \$20,349.97 from the sale of the Land Rover and four
10 bicycles; \$13,756.00 checks from various third parties; and \$22,785.01 money market account
11 interest). Disbursements were \$35,821.64, the largest components of which were Park 269's
12 Aspen property expenses (\$12,236.84), Relativity hosting fees (\$11,631.95), and legal fees
13 (\$7,955.67). In aggregate, the monitorship bank accounts have a current balance of
14 \$13,602,905.12.

15 Dated: December 3, 2019

16
17 By: /s/ Thomas W. McNamara
18 Thomas W. McNamara, Monitor
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of December, 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 ELEVENTH INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

VIA CM/ECF

Blaine T. Welsh
U.S. Attorney's Office
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, NV 89101
Tel.: 702-388-6336
Email: Blaine.Welsh@usdoj.gov
Attorneys for FTC

VIA CM/ECF

Kimberly L. Nelson
Federal Trade Commission
600 Pennsylvania Ave. NW
Mail Stop CC-9528
Washington, DC 20580
Tel.: 202-326-3304
Fax: 202-326-3197
Email: knelson@ftc.gov
Attorneys for FTC

VIA CM/ECF

Paul C. Ray
Paul C. Ray, Chtd.
8670 West Cheyenne Avenue, Suite 130
Las Vegas, NV 89129
Tel.: 702-823-2292
Fax: 702- 823-2384
Email: paulcraylaw@gmail.com
*Attorneys for AMG Capital Management, LLC;
Level 5 Motorsports, LLC; Black Creek
Capital Corporation; Broadmoor Capital
Partners, LLC; Scott A. Tucker; Park 269 LLC*

VIA CM/ECF

Francis J. Nyhan
Fredericks Peebles & Morgan LLP
2020 L Street, Ste. 250
Sacramento, CA 95811
Tel.: 916-441-2700
Fax: 916-441-2067
Email: jnyhan@ndnlaw.com
*Attorneys for Red Cedar Services, Inc., dba
500FastCash; SFS, Inc., dba OneClickCash*

VIA CM/ECF

Jeremy R. Vanderloop
Madden Vanderloop, S.C.
116 S. Main Street
Mayville, WI 53050
Tel.: 920-387-2300
Fax: 920-387-4428
Email: jvanderloop@madvanlaw.com
*Attorneys for Interested Parties ETS Ventures,
LLC; El Dorado Trailer Sales; and Dale E.
Becker*

VIA CM/ECF

Martin L. Welsh
Law Office of Hayes & Welsh
199 N. Arroyo Grande Blvd.
Henderson, NV 89074
Tel.: 702-434-3444
Fax: 702-434-3739
Email: mwelsh@lvlaw.com
*Attorneys for Interested Parties ETS Ventures,
LLC; El Dorado Trailer Sales; and Dale E.
Becker*

VIA CM/ECF

Nicole Ducheneaux
Fredericks Peebles & Morgan LLP
3610 North 163rd Plaza
Omaha, NE 68116
Tel.: 402-333-4053
Fax: 402-333-4761
Email: nducheneaux@ndnlaw.com
*Attorneys for Red Cedar Services, Inc., dba
500FastCash; SFS, Inc., dba OneClickCash*

VIA CM/ECF

Joshua M. Dickey
Bailey Kennedy
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
Tel.: 702-562-8820
Fax: 702-562-8821
Email: jdickey@baileykennedy.com
*Attorneys for Red Cedar Services, Inc., dba
500FastCash; SFS, Inc., dba OneClickCash*

VIA CM/ECF

Victoria W. Ni
Public Justice, PC
475 14th Street, Suite 650
Oakland, CA 94612-1949
Tel.: 510-622-8150
Fax: 510-622-8155
Email: vni@publicjustice.net
*Attorneys for Intervenor Americans for
Financial Reform*

VIA EMAIL

Kim Tucker
7118 Village Drive
Prairie Village, KS 66208
kim@kimtucker.net
Pro Se

/s/ Edward Chang

Edward Chang
*Attorneys for the Court-appointed Monitor,
Thomas W. McNamara*

VIA CM/ECF

Craig B. Friedberg
Law Offices of Craig B. Friedberg
4760 South Pecos Road, Suite 103
Las Vegas, NV 89121
Tel.: 702-435-7968
Fax: 702-946-0887
Email: attcbf@cox.net
*Attorneys for Intervenor Americans for
Financial Reform*