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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 TWELVTH INTERIM  
REPORT AND ACCOUNT**

**TWELFTH INTERIM REPORT AND ACCOUNT**

Pursuant to Section XVII of the Order Appointing Monitor and Freezing Assets (the “Monitor Order,” ECF No. 1099), in my capacity as Monitor, I submit this Interim Report and Account which covers the activities from November 6, 2019 through January 24, 2020.

**1. Summary of the Monitor’s Operations**

**a. Bartlesville Hotel**

Recently, the Monitor reached a settlement with Sunway Hotel Group, Inc.; Sunway Hotel Management, Inc.; Bartlesville SW Hotel, Inc.; Bartlesville Hotel, LLC; and Bartlesville Hotel DEC, LLC (collectively, the “Sunway Parties”) regarding the Monitorship Estate’s interest in a hotel in Bartlesville, Oklahoma (the “Bartlesville Hotel”). In 2013, Westfund LLC (“Westfund”) received an assignment of certain profits and earnings from the Bartlesville Hotel. We discovered Westfund never received any profits or earnings from the Bartlesville Hotel and after further investigation, we determined that the management company double dipped and paid itself a “restaurant/bar oversight fee” of \$6,100 per month and received a total of \$274,500 from October 2013 to July 2017. While the Sunway Parties disagree with the Monitor’s contentions, we entered a settlement agreement that was recently submitted to the Court. *See* ECF No. 1281. Provided the Court approves the settlement agreement, the Sunway Parties will pay \$425,000 to the Monitor and, in exchange, the Monitor will assign Westfund’s Economic Interest and Bartlesville Hotel Holdings, LLC’s membership interest in the Bartlesville Hotel to the Sunway Parties.

**b. David Feingold Settlement**

The Monitor continues to pursue and recover assets from David Feingold; Dylan, Jagger Investment, Co. Inc.; Homeowners Realty, LLC; UMR Building LLC; and United Material Recovery, LLC (collectively, the “Feingold Parties”) who breached their settlement agreement. *See* ECF Nos. 1188, 1191, 1213-1217 and 1228. Recently, the Monitor filed a motion to reduce the Feingold Parties’ settlement to an enforceable money judgment, which the Feingold Parties failed to oppose. *See* ECF No. 1280. Once the judgment is issued, we will proceed to collect on the judgment.

1 After investigating some late 2018-early 2019 transactions by David Feingold that appear  
2 to be in contempt of this Court's orders, we entered settlement discussions with several parties to  
3 resolve potential litigation involving what appear to be fraudulent transfers intended to favor Mr.  
4 Feingold and his friends at the expense of the Monitorship Estate. The Court recently approved  
5 one settlement agreement. We are still in settlement discussions with others. If settlement  
6 discussions do not result in satisfactory resolutions, we will likely file one or more proceedings  
7 to recover Monitorship Estate assets. Our efforts to retrieve Monitorship Estate assets from Mr.  
8 Feingold and related parties are ongoing.

9 **c. Team Property & Investment, LLC Mortgages**

10 In June 2014, Team Property & Investment, LLC ("Team Property") acquired various  
11 real properties from the Monitor Entities, which agreed to finance the sale of the properties. In  
12 December 2019, Team Property contacted us to discuss their loans, which were scheduled to  
13 mature in October 2020. After some discussions, Team Property agreed to satisfy their loans in  
14 full and we agreed to provide a credit of \$5,000 for Team Property's attorney to prepare the  
15 necessary loan release documents. On December 16, 2019, Team Property paid \$323,662.74 to  
16 the Monitorship Estate to satisfy their outstanding loans.

17 **d. Vehicles**

18 After securing two additional Scott Tucker vehicles (a 2000 ERA Replica Cobra 427 SC  
19 and a 2015 Ferrari 458 Speciale), we contacted RM Sotheby's, which recommended selling the  
20 vehicles in their upcoming Palm Beach auction on March 20-21, 2020. We are in the process of  
21 preparing the vehicles for sale.

22 **e. Collection Lawsuits**

23 **i. WhamTech**

24 While WhamTech, Inc. ("WhamTech") agreed to pay \$3 million to satisfy its outstanding  
25 loans owed to Black Creek Capital Corporation, it has only paid \$1 million to date. *See* ECF  
26 No. 1240. After providing written notice of default to WhamTech, it failed to cure the default.  
27 We are in the process of filing the confession of judgment and UCC-1 financing statements and  
28 will proceed with further collection efforts.

1                                    **ii.            Stealth Power**

2            Stealth Power, LLC (“Stealth”) has admitted that it borrowed money from Westfund  
 3    LLC, but disputes the amount owed. *See McNamara v. Stealth Power, LLC*, Case No. 2:18-cv-  
 4    01813-GMN-NJK, ECF No. 11 (D. Nev. Nov. 15, 2018). Recently, Stealth and the Monitor  
 5    participated in a settlement conference, which was unsuccessful. Briefing on the Monitor’s  
 6    motion for summary judgment is complete.

7                                    **iii.            Kendallwood and Milan Loans**

8            As previously reported, the Monitor obtained judgments against United Resource  
 9    Holding, LLC, Kendallwood Senior Properties, LLC, Milan Development Group, LLC, John  
 10   Julian, Linda Julian, and Paul Thoma. *See* ECF No. 1277; *see also McNamara v. United*  
 11   *Resource Holdings, LLC, et al.*, Case No. 18CV03375 (Johnson County, KS). While defendants  
 12   initially filed a notice of appeal, they subsequently dismissed their appeal. In order to pursue the  
 13   judgments, we obtained charging orders and writs of execution. Our collection efforts are  
 14   beginning.

15                                  **f.            Park 269 Aspen House**

16            As previously reported, the U.S. Attorney’s Office for the Southern District of New  
 17   York, FTC, and IRS agreed to have the Monitor sell the Aspen property. The Monitor received  
 18   and accepted an initial offer, which the buyer later cancelled because he could not expand the  
 19   property as he had hoped. A second offer was accepted, but the buyer cancelled during the  
 20   contingency period. The broker continues to advertise and show the property.

21            In order to generate revenue during the winter ski season, the Monitor engaged a broker  
 22   to market property for short term rentals. Three different short term renters stayed at the Aspen  
 23   property for a total of 17 nights. As a result, the Monitorship Estate netted \$75,350.

24                                  **g.            Fraudulent Transfer Lawsuits and the Intercept Lawsuit**

25            The four fraudulent transfer lawsuits filed by the Monitor – *McNamara v. C. Hallinan*  
 26   (*“C. Hallinan”*), Case No. 2:17-cv-02966-GMN-NJK, *L. Hallinan*, Case No. 2:17-cv-02967-  
 27   GMN-PAL, *McNamara v. Patten, et al. (“Patten”)*, Case No. 2:17-cv-02968-GMN-NJK, and  
 28   *McNamara v. Selling Source, et al. (“Selling Source”)*, Case No. 2:17-cv-2969-GMN-CWH –

1 remain at varying stages. Since the last status report, this Court granted in part and denied in part  
 2 the motion to dismiss pending in *L. Hallinan*. Both that case and *C. Hallinan* have fully-briefed  
 3 cross-motions for summary judgment pending. In *Patten*, the case reopened and the parties are  
 4 proceeding with discovery pursuant to the new scheduling order. *Selling Source* remains stayed  
 5 pending resolution of the motion to dismiss. Finally, in *McNamara v. Intercept Corp., et al.*,  
 6 Case No. 2:18-cv-02281-GMN-VCF (D. Nev.), Defendants' motion to dismiss is fully briefed  
 7 and discovery is stayed pending its resolution. *See id.*, ECF No. 33. A status conference before  
 8 the magistrate judge is scheduled for February 3, 2020. Earlier this month, your Honor requested  
 9 that the Monitor file a supplemental brief on Nevada statute of limitations, which has been filed.  
 10 *See id.*, ECF No. 40.

#### 11 **h. Clawback Targets**

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

#### 15 **2. Monitorship Bank Accounts**

16 Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for  
 17 the period November 26, 2019 through January 24, 2020. During this time period, receipts were  
 18 \$410,967.29 (\$323,917.74 from various third parties; \$75,350 from short-term rentals of the  
 19 Aspen property; \$2,232.35 from court refund from Sheriff's sale of Ohio recycling plant; and  
 20 \$9,467.20 money market account interest). Disbursements were \$27,353.02, the largest  
 21 components of which were Park 269's Aspen property expenses (\$11,644.32), Relativity hosting  
 22 fees (\$5,663.89), and property taxes (\$5,094.43). In aggregate, the monitorship bank accounts  
 23 have a current balance of \$13,986,519.39.

24 Dated: January 30, 2020

25  
 26 By: /s/ Thomas W. McNamara  
 Thomas W. McNamara, Monitor

**CERTIFICATE OF SERVICE**

I hereby certify that on the 30th day of January, 2020, 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 TWELFTH INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

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