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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 THIRTEENTH INTERIM
REPORT AND ACCOUNT**

c. 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. To date, the Monitor received six offers and entered contract with two potential buyers. The first potential buyer cancelled because he could not expand the property as he had hoped, and the second potential buyer cancelled during the contingency period. The Aspen Property is still actively listed, but the COVID-19 pandemic hindered sales efforts. Now that some of the stay at home orders have been lifted, the broker is actively showing the house and remains hopeful that the house will sell during the upcoming busy season (Fourth of July to Labor Day).¹

2. Summary of Claims and Lawsuits Brought by the Monitor

a. Bartlesville Hotel

In mid-January 2020, 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 regarding the Monitorship Estate's interest in a hotel in Bartlesville, Oklahoma, which is discussed in more detail in the joint motion requesting approval of the settlement (ECF No. 1281) and the Receiver's Twelfth Interim Report (ECF No. 1282). Shortly after the Court granted the joint motion to approve the settlement (ECF No. 1287), the Monitor received \$425,000 from the Sunway Parties and in exchange the Monitor transferred the Monitorship Estate's interest in the hotel to the Sunway Parties. Both parties have fulfilled their obligations under the settlement agreement, concluding this matter.

b. Collection Lawsuits Related to 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. In early January, the Monitor filed a motion to reduce the Feingold Parties' settlement to an enforceable money judgment. *See* ECF No. 1280.

¹ The Aspen property has been available for short-term rentals. From June 2, 2019 to April 1, 2020, the property generated \$232,020 in rental income with \$177,150 in rental expenses, resulting in a net income of \$45,869.

1 After the Feingold Parties failed to file an opposition, the Court granted the motion on April 16,
2 2020 (ECF No. 1290), and entered judgment against the Feingold Parties, jointly and severally,
3 in the amount of \$2,416,666.36 (ECF No. 1291). Our collection efforts to retrieve Monitorship
4 Estate assets from Mr. Feingold and related parties are discussed immediately below.

5 **i. Jerry Gottlieb**

6 After investigating some late 2018-early 2019 transactions by David Feingold that
7 appeared to be in contempt of this Court's orders, we entered settlement discussions with some
8 parties to resolve potential litigation involving fraudulent transfers arising from the Feingold
9 investigation. The Court has approved the settlement agreement between the Monitor and Jerry
10 Gottlieb and Related Parties (ECF No. 1279). We received the settlement payment of
11 \$104,535.72 from Mr. Gottlieb.

12 **ii. Ward Katz**

13 In early January, the Monitor filed a petition in Kansas state court against David Feingold
14 (individually and as trustee of the Chad M. Feingold Grantor Trust #2 and the Erika Feingold
15 Grantor Trust #2); Ward A. Katz; S.T.A.D. Associates, Inc.; St. Andrews Apartments, L.P., and
16 OP Apartments, LLC. *See McNamara v. Katz, et al.*, Case No. 20CV00154 (Johnson County,
17 Kan.). Katz and Feingold were each part-owners of a multi-family residential real estate
18 complex in Overland Park, Kansas, with their ownership interests residing in different holding
19 companies.

20 After the Monitor reached a settlement with the Feingold Parties, but before this Court
21 enjoined the Feingold Parties from directly or indirectly transferring assets to frustrate the
22 Monitor's collection efforts under the Settlement Agreement, Feingold attempted to transfer his
23 interest in the apartment complex to Katz. The Monitor has alleged that Feingold, knowing that
24 his interest was worth approximately \$1 million, was nonetheless attempting to sell his interest to
25 Katz for \$200,000 in order to limit the amount the Monitorship Estate would receive. Although
26 the parties took the initial steps towards consummating this transaction (an agreement was signed
27 to transfer Feingold's interest for the \$200,000), it was never completed. The Monitor seeks a
28 declaratory judgment that the transaction was never completed and that Feingold is still an owner

1 or, in the alternative, avoidance of the transfer and attachment of the interest under the Kansas
2 Uniform Fraudulent Transfer Act.

3 As of March 27, 2020, all parties have answered (including answering counter- and
4 cross-claims filed by Katz). Discovery is open and the case is moving forward. The Monitor
5 will continue to update the Court on the status.

6 **iii. Feingold's Interest in RedTag, LLC**

7 Last month, the Monitor, as judgment creditor, filed his judgment against the Feingold
8 Parties as judgment debtors in Kansas state court. A motion for a charging order is pending in
9 that case, pursuant to which the Monitor is seeking to secure Mr. Feingold's profits interest in
10 RedTag LLC, a reseller of computer and electronic merchandise.

11 **c. WhamTech**

12 In April 2019, the Receiver reached a settlement with WhamTech, Inc. ("WhamTech"),
13 pursuant to which WhamTech agreed to pay \$3 million to satisfy outstanding loans that it owed
14 to Black Creek Capital Corporation. *See* ECF No. 1240. The \$3 million was to be paid in full
15 by December 15, 2019, after which the parties were to submit a stipulation and order to dismiss
16 the case with prejudice, each party to bear its own fees and costs. *See McNamara v. WhamTech,*
17 *Inc. ("WhamTech"),* Case No. 2:18-cv-01336-JCM-CWH, ECF No. 13 (D. Nev. May 16, 2019).
18 Shortly thereafter, the case was administratively closed. *See id.*, ECF No. 14. While WhamTech
19 paid the Monitor \$1 million, WhamTech failed to pay the remaining \$2 million. The Monitor
20 provided written notice of default to WhamTech on January 7, 2020, *see id.*, ECF No. 16, but
21 after WhamTech after failed to cure its default within the time allowed, the Monitor filed a
22 confession of judgment (*id.*, ECF No. 17) and an affidavit in support thereof (*id.*, ECF No. 19).
23 Once the Court issues a judgment against WhamTech, the Monitor will proceed with collection
24 efforts.

25 **d. Stealth Power**

26 Stealth Power, LLC ("Stealth") has admitted that it borrowed money from Westfund
27 LLC, but disputes the amount owed. *See McNamara v. Stealth Power, LLC*, Case No. 2:18-cv-
28 01813-GMN-NJK, ECF No. 11 (D. Nev. Nov. 15, 2018). In mid-January, Stealth and the

1 Monitor participated in a settlement conference, which was unsuccessful. Briefing on the
2 Monitor's motion for summary judgment and motion for judgment on the pleadings is complete.

3 **e. Kendallwood and Milan Loans**

4 As previously reported, the Monitor obtained judgments against United Resource
5 Holding, LLC, Kendallwood Senior Properties, LLC, Milan Development Group, LLC, John
6 Julian, Linda Julian, and Paul Thoma. *See* ECF No. 1277; *see also* *McNamara v. United*
7 *Resource Holdings, LLC, et al.*, Case No. 18CV03375 (Johnson County, Kan.). While
8 defendants initially filed a notice of appeal, they subsequently dismissed their appeal. In order to
9 pursue the judgments, we obtained charging orders and writs of execution. Our collection efforts
10 are still in their early stages, but we expect to begin taking judgment debtor examinations in the
11 near term.

12 **f. Fraudulent Transfer Lawsuits**

13 The four fraudulent transfer lawsuits filed by the Monitor – *McNamara v. C. Hallinan*
14 (*"C. Hallinan"*), Case No. 2:17-cv-02966-GMN-NJK, *L. Hallinan*, Case No. 2:17-cv-02967-
15 GMN-BNW, *McNamara v. Patten, et al.* (*"Patten"*), Case No. 2:17-cv-02968-GMN-NJK, and
16 *McNamara v. Selling Source, et al.* (*"Selling Source"*), Case No. 2:17-cv-2969-GMN-DJA –
17 remain at varying stages. In both *L. Hallinan* and *C. Hallinan*, the parties have fully briefed
18 cross-motions for summary judgment which remain pending. In *Patten*, a motion to dismiss is
19 fully briefed and the parties are proceeding with discovery pursuant to the new scheduling order.
20 *Selling Source* remains stayed pending resolution of the motion to dismiss.

21 **g. Intercept**

22 In *McNamara v. Intercept Corp., et al.*, Case No. 2:18-cv-02281-GMN-VCF (D. Nev.),
23 the Court granted in part and denied in part Defendants' motion to dismiss, giving the Monitor
24 leave to amend. The Monitor has since filed his First Amended Complaint, which the defendants
25 have moved to dismiss; briefing on the motion is not yet complete. In the interim, the Court has
26 partially lifted the discovery stay and discovery is to proceed as to the third cause of action
27 (aiding and abetting breach of fiduciary duty) only. *See id.*, ECF No. 33.

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1 **3. Monitorship Bank Accounts**

2 Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for
3 the period January 25, 2020 through June 10, 2020. During this time period, receipts were
4 \$1,157,027.53 (\$425,000 from Bartlesville Hotel settlement; \$307,090.98 from sale of vehicles;
5 \$201,424.77 from payoff of mortgage; \$105,965.75 from short-term rentals of the Aspen
6 property; \$104,535.72 from Jerry Gottlieb settlement; and \$13,010.31 money market account
7 interest). Disbursements were \$556,956.50, the largest components of which were approved fees
8 and expenses for the Monitor and his counsel (\$506,015.53), Park 269's Aspen property
9 expenses (\$28,666.02), and Relativity hosting fees (\$19,562.95). In aggregate, the monitorship
10 bank accounts have a current balance of \$14,586,590.42.

11 Dated: June 12, 2020

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

I hereby certify that on the 12th day of June, 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 THIRTEENTH INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

VIA CM/ECF

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