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10 *Attorneys for Court-Appointed Monitor*

11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

16 AMG SERVICES, INC., et al.,

17 Defendants, and

18 PARK 269 LLC, et al.,

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

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

**FOURTEENTH 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 June 11, 2020 through December 8, 2020.

**1. Summary of the Monitor’s Liquidation Efforts**

**a. Vehicles**

After securing possession of four additional Scott Tucker vehicles (a 1967 Ford Shelby GT500 Replica, 1965 Ford Shelby GT350 R Replica, 1963 Corvette Sting Ray LS2 Custom Convertible, and a 1991 California Spider Fiberglass Replica), we contacted RM Sotheby’s, who recommended selling the vehicles in their Auburn Fall Auction held September 2-5, 2020. The GT500 sold for \$47,500 (\$44,400 in net proceeds after commission and detailing costs), the GT350 sold for \$17,000 (\$15,300 in net proceeds after commission), the Corvette sold for \$40,000 (\$35,600 in net proceeds after commission and detailing costs); and the Spider sold for \$8,000. In total, the Monitorship Estate netted \$103,300 for the sale of all four vehicles.

**b. Park 269 LLC’s 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. Following two unsuccessful sales and delays caused by the COVID-19 pandemic, the Monitor closed escrow on the sale of the home on August 6, 2020 for a purchase price of \$10,700,000. Per agreement with the Government, the Monitorship Estate received \$52,863, the approximate value of the home furnishings, from the sale proceeds.

**2. Summary of Ongoing Claims and Lawsuits Brought by the Monitor**

**a. 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 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 ongoing collection efforts to retrieve  
4 Monitorship Estate assets from Mr. Feingold and related parties are discussed immediately  
5 below.

6 **i. Ward Katz**

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

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

25 All parties have answered (including answering counter- and cross-claims filed by Katz)  
26 and the case is now in the written discovery phase. Due to the COVID-19 pandemic, the parties  
27 have not yet conducted depositions, but hope to do so as conditions allow. The case is set for  
28 bench trial on September 1, 2021.

1                                    **ii.            Feingold’s Interest in RedTag, LLC**

2            The Monitor is seeking to secure Mr. Feingold’s profits interest in RedTag LLC, a  
 3 reseller of computer and electronic merchandise. The Monitor, as judgment creditor, filed his  
 4 judgment against the Feingold Parties as judgment debtors in Kansas state court. The Court  
 5 subsequently issued a charging order which was served on RedTag on July 15, 2020. While no  
 6 distributions have been received to date, the Monitor intends to contact RedTag in mid-  
 7 December to discuss any potential year end distributions and to remind the company of its  
 8 obligations under the charging order.

9                                    **b.            WhamTech**

10           In April 2019, the Receiver reached a settlement with WhamTech, Inc. (“WhamTech”),  
 11 pursuant to which WhamTech agreed to pay \$3 million to satisfy outstanding loans that it owed  
 12 to Black Creek Capital Corporation. *See* ECF No. 1240. The \$3 million was to be paid in full  
 13 by December 15, 2019, after which the parties were to submit a stipulation and order to dismiss  
 14 the case with prejudice, each party to bear its own fees and costs. *See McNamara v. WhamTech,*  
 15 *Inc. (“WhamTech”),* Case No. 2:18-cv-01336-JCM-CWH, ECF No. 13 (D. Nev. May 16, 2019).  
 16 Shortly thereafter, the case was administratively closed. *See id.*, ECF No. 14. While WhamTech  
 17 paid the Monitor \$1 million, WhamTech failed to pay the remaining \$2 million. The Monitor  
 18 subsequently filed a confession of judgment (*id.*, ECF No. 17) and an affidavit in support thereof  
 19 (*id.*, ECF No. 19). On July 24, 2020, the Court issued a judgment against WhamTech in the  
 20 amount of \$2 million plus interest at the legal rate. *Id.*, ECF No. 22. The Monitor is currently  
 21 proceeding with collection efforts.

22                                    **c.            Stealth Power**

23           Stealth Power, LLC (“Stealth”) has admitted that it borrowed money from Westfund  
 24 LLC, but disputes the amount owed. *See McNamara v. Stealth Power, LLC*, Case No. 2:18-cv-  
 25 01813-GMN-DJA, ECF No. 11 (D. Nev. Nov. 15, 2018). In mid-January, Stealth and the  
 26 Monitor participated in a settlement conference, which was unsuccessful. Briefing on the  
 27 Monitor’s motion for summary judgment and motion for judgment on the pleadings is complete.  
 28 On September 3, 2020, the Court issued an order staying the matter pending the U.S. Supreme

1 Court's ruling in *AMG Capital Management, LLC v. Federal Trade Commission*, No. 19-508.<sup>1</sup>  
 2 *Id.*, ECF No. 60. Hearing in the AMG matter has been set for January 13, 2021.

3 **d. 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 in progress with regular financial updates and document supplementation from the judgment  
 11 debtors. Debtor examinations will also proceed as circumstances allow.

12 **e. 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 were proceeding with discovery pursuant to the most recent  
 20 scheduling order up until the time the case was stayed. Discovery in *Selling Source* was stayed  
 21 pending resolution of the motion to dismiss. By separate orders and/or stipulation, the Court has  
 22 stayed all four cases pending the U.S. Supreme Court's ruling in *AMG Capital Management,*  
 23 *LLC v. Federal Trade Commission*, No. 19-508. Hearing in the AMG matter has been set for  
 24 January 13, 2021.

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 28 <sup>1</sup> The case has been consolidated with *Federal Trade Commission v. Credit Bureau Center LLC,*  
*et al.*, No. 19-825.

**f. Intercept**

In *McNamara v. Intercept Corp., et al.*, Case No. 2:18-cv-02281-GMN-VCF (D. Nev.), the Court granted in part and denied in part Defendants’ motion to dismiss, giving the Monitor leave to amend. The Monitor has since filed his First Amended Complaint, which the defendants have moved to dismiss; briefing on the motion is complete. In the interim, the Court partially lifted the discovery stay to allow discovery on the third cause of action (aiding and abetting breach of fiduciary duty) only. *Id.*, ECF No. 33. On October 2, 2020, pursuant to stipulation between the parties, the Court stayed this action pending the U.S. Supreme Court’s ruling in *AMG Capital Management, LLC v. Federal Trade Commission*, No. 19-508. Hearing in the AMG matter has been set for January 13, 2021.

**g. Claim Settlement**

In August 2020, the Monitor resolved matters with third parties through a confidential settlement. The parties subsequently filed under seal a joint motion to approve the settlement, which is pending.

**h. IVX Health Promissory Note**

In February 2020, the Monitor became aware of a Line of Credit Promissory Note up to \$100,000 that IVXpress Inc. dba Infusion Express (“IVXpress”) had entered into with Scott Tucker (the “Note”). The Monitor investigated and determined that the principal amount owed on the Note was \$50,000 which Tucker had advanced on December 26, 2013 and that IVXpress had previously made seven payments on the Note totaling \$10,658.80 between October 31, 2014 and June 27, 2016. After negotiations with IVX Health (formerly known as IVXpress), the Monitor agreed to waive default interest and accept regular interest for the entire period the loan had been outstanding – resulting in a remaining balance of \$64,400. On June 11, 2020, IVX Health remitted payment of \$64,400 to the Monitorship Estate, constituting IVX Health’s fulfillment of their obligations under the Note.

**3. Monitorship Bank Accounts**

Attached as Exhibit A is a Receipts and Disbursements Summary for the Monitorship for the period June 11, 2020 through December 8, 2020. During this time period, receipts were

1 \$741,265.68 (\$103,300.00 from the sale of vehicles; \$64,400.00 from the repayment of a  
2 promissory note; \$52,863.00 (home furnishings value) from the proceeds of the sale of the Park  
3 269 LLC's Aspen property; \$10,702.68 money market account interest, and \$510,000.00 in  
4 funds received). Disbursements were \$31,271.77, the largest components of which were Park  
5 269 LLC's Aspen property expenses (\$9,408.53), and Relativity hosting fees (\$16,455.45). In  
6 aggregate, the Monitorship bank accounts have a current balance of \$15,296,584.33.

7 Dated: December 9, 2020

8  
9 By: /s/ Thomas W. McNamara  
Thomas W. McNamara, Monitor

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day of December, 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 FOURTEENTH INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

**VIA CM/ECF**

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