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17 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
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19 FEDERAL TRADE COMMISSION,
20 Plaintiff,
21 v.
AMG SERVICES, INC., et al.,
22 Defendants, and
23 PARK 269 LLC, et al.,
24 Relief Defendants.

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

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

JUDGE: Hon. Gloria M. Navarro

1 **THIRD INTERIM REPORT AND ACCOUNT**

2 Pursuant to Section XVII of the Order Appointing Monitor and Freezing Assets (the
3 “Monitor Order,” ECF No. 1099), directing the Monitor to report at intervals of no less than 90
4 days, in my capacity as Monitor, I submit this Third Interim Report and Account which covers
5 the activities of the Monitor from August 1, 2017 to October 31, 2017.

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

7 **a. Eyecare Indiana and Steve Lord**

8 We have recently recovered \$97,500 and confirmed an agreement to recover, by
9 November 15, 2017, another \$185,000 in funds due to monitor entity Broadmoor Capital
10 Partners, LLC (“Broadmoor”) in connection with the 2011 sale of optometry services locations
11 to Eyecare Indiana II, P.C. (“Eyecare Indiana”). Broadmoor was a member of a limited liability
12 company (OAP I, LLC) which sold the properties, but portions of the funds due Broadmoor were
13 wrongfully diverted by a former Broadmoor officer, Steve Lord (“Lord”), to his company Juke
14 Entertainment LLC (“Juke”). On September 28, 2017, Lord returned diverted funds of \$97,500 to
15 the monitorship. Eyecare Indiana has also agreed to remit the remaining principal balance of
16 \$185,000 directly to the monitorship rather than to Juke.

17 **b. Trailer Dispute**

18 As the Court knows, on September 27, 2017, the Court granted the Motion for
19 Clarification filed by El Dorado Trailer Sales, LLC, E.T.S. Ventures, LLC, and Dale Becker
20 (collectively “El Dorado”). *See* ECF No. 1159.

21 On September 29, 2017, the Court adopted Magistrate Judge Cam Ferenbach’s Report
22 and Recommendation regarding sanctions. *See* ECF No. 1160. The Court also ordered the
23 Monitor to submit an affidavit and brief relating to monetary sanctions, which the Monitor filed
24 on October 13, 2017, followed by El Dorado’s response on October 20, 2017 and the Monitor’s
25 reply on October 27, 2017. *See* ECF Nos. 1162, 1163, and 1165.

26 The above-referenced orders of this Court were also provided to the Ninth Circuit Court
27 of Appeals. *See FTC v. E.T.S. Ventures, LLC*, Case No. 17-15552, Docket Entry Nos. 38 and 42.

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1 On October 16, 2017, the Ninth Circuit Court of Appeals heard oral arguments. *See id.*, Docket
2 Entry No. 43.

3 **c. Clawback Targets**

4 As we previously reported, we reached a settlement in principle with David Feingold. As
5 we document the settlement, we have encountered some technical issues that we are working
6 through and expect to resolve. Once the settlement agreement is finalized, we will present it to
7 the Court for approval.

8 As we reported in our Second Interim Report, in 2013, Westfund, Scott Tucker, and
9 others entered a settlement agreement with Sunway Hotel Group, Inc., Donald Culbertson, and
10 others settling various disputes. As a result, the economic interests (i.e., profits and earnings) of
11 a hotel located in Bartlesville, Oklahoma were assigned to Westfund. From 2013 forward
12 Westfund never received any profits or earnings from the Bartlesville hotel. We understand that
13 Scott Tucker previously audited Sunway's books and records and found no irregularities.
14 Nevertheless, I instructed my forensic accountant to review the hotel's books and records. After
15 untangling the complicated hotel management structure and reviewing the financial records, my
16 forensic accountant discovered that the Bartlesville hotel, with its current Sunway management
17 agreement in place, has not and will not be profitable. However, he discovered that the
18 management group had been charging an unauthorized fee of \$6,100 per month for nearly four
19 years. We demanded return of this fee. We have reached a settlement in principle whereby the
20 management group will return \$274,500 of unauthorized fees to the monitorship in exchange for
21 the economic interest and certain releases.

22 After we presented our Second Interim Report, Sunway asked that we release the
23 ownership of the company which held partial ownership of the hotel real property. We were not
24 willing to do so absent additional compensation. The hotel has recently been appraised and our
25 forensic accountant is reviewing additional financial statements. When this has been completed,
26 we will be in a position to discuss an appropriate resolution with Sunway. If we are able to reach
27 an agreement, we will present it to the court for approval.

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

4 **2. Monitorship Bank Accounts**

5 Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for
6 the period August 1, 2017 through October 31, 2017. During this time period, receipts were
7 \$114,521.87 (\$97,500 in settlement proceeds from Steve Lord/Juke; \$10,891.76 checks from
8 various third parties; and \$6,130.11 money market account interest). Disbursements were
9 \$10,630.57 (\$7,503.60 Relativity hosting fees; \$2,808.96 IT forensics services; \$218.01 records
10 production and \$100 bond renewal). In aggregate, the monitorship bank accounts have a current
11 balance of \$6,641,667.20.

12 Dated: October 31, 2017

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

I hereby certify that on the 31st day of October, 2017, 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 THIRD INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

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