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1 2 3 4 5 6 7 8 9 10	 1980 Festival Plaza Drive, Suite 900 Las Vegas, Nevada 89135-2958 Tel.: 702-471-7000 Fax: 702-471-7070 Edward Chang (NV 11783) echang@mcnamarallp.com Sanjay Bhandari (<i>pro hac vice</i>) sbhandari@mcnamarallp.com Logan D. Smith (<i>pro hac vice</i>) lsmith@mcnamarallp.com MCNAMARA SMITH LLP 655 West Broadway, Suite 1600 					
11	Attorneys for Court-Appointed Monitor					
12	UNITED STATES DISTRICT COURT DISTRICT OF NEVADA					
13						
14	FEDERAL TRADE COMMISSION, Plaintiff,				536-GMN-VCF	
15	V.		DNITOR [®] DACCC		H INTERIM REP	ORT
16	AMG SERVICES, INC., et al.,	JUI	OGE:	Hon. G	loria M. Navarro	
17	Defendants, and					
18	PARK 269 LLC, et al.,					
19	Relief Defendants.					
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SIXTH INTERIM REPORT AND ACCOUNT

Pursuant to Section XVII of the Order Appointing Monitor and Freezing Assets (the
"Monitor Order," ECF No. 1099), directing the Monitor to report at intervals of no less than 90
days, in my capacity as Monitor, I submit this Sixth Interim Report and Account which covers
the activities of the Monitor from April 28, 2018 through July 30, 2018.

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1.

Summary of the Monitor's Operations

a. Trailer Dispute

8 In June 2018, El Dorado Trailer Sales, LLC, E.T.S. Ventures, LLC, and Dale Becker 9 (collectively, "El Dorado") and the Monitor reached a settlement agreement, which is currently pending the Court's approval. See ECF No. 1203. As further detailed in the joint motion and 10 11 settlement agreement, El Dorado agreed to pay the Monitor \$255,000 and dismiss its current appeal before the Ninth Circuit. In exchange, the Monitor will release Level 5's interest in the 12 black Bruce High Performance Transporter, LLC trailer bearing VIN number 13 4B9S5314GP004030 (the "Trailer") to El Dorado and El Dorado will be permitted to sell the 14 Trailer. Provided the Court approves the settlement agreement, El Dorado and the Monitor will 15

16 file a joint motion to dismiss the Ninth Circuit appeal and the Monitor will file a satisfaction of17 judgment.

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b. 2015 Ferrari 258 Speciale A

Immediately after the Court granted the Monitor's Motion for Order to Approve and
Confirm Sale of 2015 Ferrari 458 Speciale A (ECF No. 1199), Boardwalk Ferrari began
marketing the vehicle. Over the course of nearly two months, Boardwalk Ferrari received
several offers that were unacceptable. In late July 2018, Boardwalk Ferrari received an offer for
\$645,000 (later increased to \$655,000 during negotiations) to purchase the vehicle. The Monitor
agreed to the price and the sale is currently being finalized. The monitorship will receive
\$622,250 from the vehicle's sale (\$655,000 less 5% commission to Boardwalk Ferrari).

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c. WhamTech

Despite repeated assurances to the Monitor from WhamTech, Inc. ("WhamTech") that payment was forthcoming, WhamTech has failed to repay loans obtained from Black Creek

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Capital Corporation. As of March 31, 2018, the amount due is \$2,913,392.33. After months of
 promises and assurances from WhamTech's CEO, which never came to pass, the Monitor was
 forced to bring suit against WhamTech. *See McNamara v. WhamTech, Inc.*, Case No. 2:18-cv 01336-JCM-CWH, ECF No. 1 (D. Nev. July 20, 2018). The complaint and summons were
 recently served on WhamTech.

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d. Kendallwood and Milan Loans

In December 2015, United Resource Holding, LLC ("United Resource") and
Kendallwood Senior Properties, LLC ("Kendallwood") executed a promissory note in the
amount of \$976,000 payable to Westfund, LLC ("Westfund"). John Julian, Linda Julian, and
Paul Thoma each executed a personal guaranty. The note matured and United Resource and
Kendallwood defaulted and failed to pay the amounts due and owing. As of June 1, 2018, the
amounts owed are \$976,000 in principal, \$479,614.53 in accrued interest, and \$23,980.73 in late
fees.

In August 2007, Milan Development Group, LLC ("Milan"), United Resource, Paul
Thoma, and John Julian executed an earlier promissory note in the amount of \$1,420,750
payable to Westfund. Milan, United Resource, Paul Thoma and John Julian are in default and
failed to pay the amounts due and owing. As of June 1, 2018, the borrowers owe \$520,750 in
principal and \$252,997.75 in accrued interest.

Despite negotiations with borrowers and guarantors, the parties were unable to reach a
resolution. This Court granted the Monitor leave to retain Geiger Prell, LLC as counsel to
pursue these promissory notes, which are partially secured by real property in Missouri and
Illinois. The complaint has been filed and served upon defendants. *See McNamara v. United Resource Holdings, LLC, et al.*, Case No. 18CV03375 (Johnson County, KS).

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e. Clawback Targets

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

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Fraudulent Transfer Complaints

As previously reported, the Monitor filed four fraudulent transfer actions. In all four
cases, Defendants filed motions to dismiss. Briefing on the motions to dismiss have been
completed. The motions to dismiss remain pending before Judges Dawson, Dorsey, and Mahan.

5 Charles M. Hallinan and Hallinan Capital Corp. filed a motion to stay discovery pending 6 the outcome of their motion to dismiss. Magistrate Judge Koppe denied their motion to stay discovery. See McNamara v. Hallinan, Case No. 2:17-cv-02966-KJD-NJK, ECF No. 31 (D. 7 8 Nev. Apr. 30, 2018). The parties have exchanged initial disclosures. The Monitor propounded 9 written discovery requests, to which defendants have responded. The parties are currently in the meet and confer process to determine whether defendants' discovery responses are adequate and 10 11 whether a motion to compel is necessary. Additionally, the Monitor scheduled the deposition for 12 the Rule 30(b)(6) representative of Hallinan Capital Corp.

In the second fraudulent transfer action against Linda Hallinan and Carolyn Hallinan, the
parties have exchanged initial disclosures. The Monitor also propounded written discovery
requests, to which defendants have responded. The parties are also in the meet and confer
process to determine whether defendants' discovery responses are adequate, whether defendants
will supplement their response or a motion to compel will be required.

In the third action, Gary Patten and Pano Advisors, Inc. filed a motion to stay discovery
pending the outcome of their motion to dismiss, which was later withdrawn. *See McNamara v. Patten*, Case No. 2:17-cv-02968-JCM-NJK, ECF No. 39 (D. Nev. May 14, 2018). The parties
exchanged initial disclosures. The Monitor propounded written discovery requests, to which
Defendants responded. The parties are currently in the meet and confer process to address
Defendants' discovery responses.

In the fraudulent transfer action filed against Selling Source, LLC, PartnerWeekly L.L.C.,
DataX, Ltd., MoneyMutual, LLC, and Derek LaFavor, the defendants filed a motion to stay
discovery pending the outcome of their motions to dismiss. *See McNamara v. Selling Source*, *LLC*, Case No. 2:17-cv-02969-JAD-CWH, ECF No. 62 (D. Nev. July 3, 2018). Briefing on the
motion to stay discovery has been completed and remains pending before the court.

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3. Monitorship Bank Accounts

2	Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for				
3	the period April 28, 2018 through July 30, 2018. During this time period, receipts were				
4	\$29,583.32 (\$10,000 Feingold settlement funds; \$10,797 checks from various third parties; and				
5	\$8,786.32 money market account interest). Disbursements were \$8,629.71 (\$7,255.71 for				
6	Relativity hosting fees; \$720 IT forensic services; and \$654 for records storage). In aggregate,				
7	the monitorship bank accounts have a current balance of \$9,689,105.54.				
8	Dated: July 30, 2018				
9	Dru /s/Thomas W. MaNamara				
10	By: <u>/s/ Thomas W. McNamara</u> Thomas W. McNamara, Monitor				
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1	CERTIFICATE OF SERVICE			
2 3	I hereby certify that on the 30th day of July, 2018, 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 SIXTH INTERIM REPORT AND ACCOUNT , postage prepaid and addressed to the following:			
4	and addressed to the following:			
5	VIA CM/ECF Blaine T. Welsh U.S. Attornov's Office	VIA CM/ECF Jeremy R. Vanderloop Madden Vanderloop		
6	U.S. Attorney's Office 501 Las Vegas Boulevard South, Suite 1100 Las Vegas, NV 89101	Madden Vanderloop, S.C. 116 S. Main Street Mayville, WI 53050		
7		Tel.: 920-387-2300 Fax: 920-387-4428		
8	Attorneys for FTC	Email: jvanderloop@madvanlaw.com Attorneys for Interested Parties ETS Ventures,		
9		LLC; El Dorado Trailer Sales; and Dale E. Becker		
10 11	VIA CM/ECF Kimberly L. Nelson	VIA CM/ECF Nicole Ducheneaux		
12		Fredericks Peebles & Morgan LLP 3610 North 163rd Plaza		
13	Mail Stop CC-9528 Washington, DC 20580	Omaha, NE 68116 Tel.: 402-333-4053		
14	Tel.: 202-326-3304 Fax: 202-326-3197 Email: knolson@fta.gov	Fax: 402-333-4761 Email: nducheneaux@ndnlaw.com		
15	Email: knelson@ftc.gov Attorneys for FTC	Attorneys for Red Cedar Services, Inc., dba 500FastCash; SFS, Inc., dba OneClickCash		
16	VIA CM/ECF Conly J. Schulte	<u>VIA CM/ECF</u> Martin L. Welsh		
17		Law Office of Hayes & Welsh 199 N. Arroyo Grande Blvd.		
18	Tel.: 303-673-9600	Henderson, NV 89074 Tel.: 702-434-3444		
19	Email: cschulte@ndnlaw.com	Fax: 702-434-3739 Email: mwelsh@lvlaw.com		
	Attorneys for Red Cedar Services, Inc., dba 500FastCash; SFS, Inc., dba OneClickCash;	Attorneys for Interested Parties ETS Ventures, LLC; El Dorado Trailer Sales; and Dale E.		
21	AMG Capital Management, LLC; LeadFlash Consulting, LLC	Becker		
22 23	<u>VIA CM/ECF</u> Francis J. Nyhan	<u>VIA CM/ECF</u> Joshua M. Dickey		
23	Fredericks Peebles & Morgan LLP 2020 L Street, Ste. 250	Bailey Kennedy 8984 Spanish Ridge Avenue		
25	Sacramento, CA 95811 Tel.: 916-441-2700	Las Vegas, NV 89148-1302 Tel.: 702-562-8820		
26	Fax: 916-441-2067 Email: jnyhan@ndnlaw.com	Fax: 702-562-8821 Email: jdickey@baileykennedy.com		
27	Attorneys for Red Cedar Services, Inc., dba 500FastCash; SFS, Inc., dba OneClickCash	Attorneys for Red Cedar Services, Inc., dba 500FastCash; SFS, Inc., dba OneClickCash		
28				

Case 2:12-cv-00536-GMN-VCF Document 1204 Filed 07/30/18 Page 7 of 7 VIA CM/ECF Paul C. Ray VIA CM/ECF 1 Victoria W. Ni Paul C. Ray, Chtd. 8670 West Cheyenne Avenue, Suite 130 Public Justice, PC 2 555 - 12th Street, Suite 1230 Oakland, CA 94607 Las Vegas, NV 89129 3 Tel.: 510-622-8150 Tel.: 702-823-2292 510-622-8155 702-823-2384 4 Fax: Fax: Email: vni@publicjustice.net Attorneys for Intervenor Americans for Financial Reform Email: paulcraylaw@aol.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; Kim C. Tucker 5 6 7 VIA CM/ECF Craig B. Friedberg 8 Law Offices of Craig B. Friedberg 4760 South Pecos Road, Suite 103 Las Vegas, NV 89121 Tel.: 702-435-7968 9 10 702-946-0887 Fax: Email: attcbf@cox.net 11 Attorneys for Intervenor Americans for Financial Reform 12 13 14 /s/ Edward Chang Edward Chang Attorneys for the Court-appointed Monitor, Thomas W. McNamara 15 16 17 18 19 2021 22 23 24 25 26 27 28