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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.,

Relief Defendants.

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

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

JUDGE: Hon. Gloria M. Navarro

1                                    **SEVENTH 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 Interim Report and Account which covers the  
5    activities of the Monitor from July 31, 2018 through October 31, 2018.

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

7                    **a.        David Feingold Settlement**

8            As the Court knows, we entered a settlement agreement with David Feingold, Dylan,  
9    Jagger Investment, Co. Inc., Homeowners Realty, LLC, UMR Building LLC, and United  
10   Material Recovery, LLC (collectively, the “Feingold Parties”), which the Court approved. *See*  
11   ECF Nos. 1188 and 1191. The Feingold Parties breached the settlement agreement by failing to  
12   make the required \$10,000 monthly payments and failing to adhere to the maintenance and  
13   profitability obligations of the UMR Plant in accordance with the settlement agreement.  
14   Accordingly, we filed motions to enforce the settlement agreement and for preliminary  
15   injunction and writ of attachment, which the Court granted. *See* ECF Nos. 1213-1217 and 1228.

16            On October 9, 2018, the Monitor inspected the UMR Plant in Ohio. He and staff also  
17   gathered information on the assets pledged by Feingold-controlled entities as security in the  
18   settlement agreement. The information gathered is in significant tension with the representations  
19   made by Mr. Feingold, and raises serious concerns that he may have provided misleading  
20   statements in settlement discussions. These issues may be the subject of a future motion and/or  
21   other action against Mr. Feingold and possibly others. Mr. Feingold has now, through counsel,  
22   placed the UMR Plant in bankruptcy proceedings, so the Monitor will need to retain bankruptcy  
23   counsel to protect pledged assets.

24            Separately and as previously reported, Scott Tucker’s \$1 million investment in EyeVerify  
25   LLC (“EyeVerify”) grew to more than \$7 million after EyeVerify was sold to a Chinese  
26   company in September 2016. *See* ECF No. 1188-1 at 4. As part of the sale, the purchaser held  
27   back funds as an indemnity escrow. On October 24, 2018, the monitorship received  
28   \$1,262,039.29 of the indemnity escrow release.

1                   **b.       Eclipse Renewables Asset Sale**

2           In April 2013, Eclipse Renewables, LLC (“Eclipse”) sold eighteen microwave generators  
3 back to the manufacturer, Thermex-Thermatron, LP (“Thermex”), for \$200,000—a fraction of  
4 what Eclipse originally paid for the equipment. At the time of the asset sale, Thermex  
5 immediately paid \$100,000 and agreed to pay the remaining \$100,000 six months later (October  
6 2013). Eclipse (well before the monitorship) agreed to extend Thermex’s second payment due to  
7 Thermex’s economic difficulties. Thermex recently offered \$10,000 to retire the debt. After  
8 some negotiations, the Monitor agreed to reduce the amount due to \$80,000, to be paid in three  
9 installments. The Monitor agreed to the accommodation because it avoids litigation. Thermex  
10 paid its first installation payment of \$26,666.67 in October. The second and third payments are  
11 due on December 31, 2018 and April 1, 2019, respectively.

12                   **c.       Bartlesville Hotel**

13           After the Court granted the Monitor’s motion to employ Allen Matkins for the limited  
14 purpose of advising on the Monitorship Estate’s interest in Bartlesville Hotel (ECF No. 1218),  
15 counsel began review of the settlement documents, operating agreement, and management  
16 agreement to make recommendations maximizing the Monitorship Estate’s interest. Once  
17 counsel completes the review and analysis, we will evaluate the recommendations and take  
18 appropriate action.

19                   **d.       Trailer Dispute**

20           As previously reported, the Monitor reached a settlement with El Dorado Trailer Sales,  
21 LLC, E.T.S. Ventures, LLC, and Dale Becker (collectively, “El Dorado”) whereby El Dorado  
22 agreed to pay \$255,000 and dismiss its appeal before the Ninth Circuit and the Monitor agreed to  
23 release Level 5’s interest in the black Bruce High Performance Transporter, LLC trailer in  
24 dispute. *See* ECF No. 1203. On August 15, 2018, the Court approved the settlement. *See* ECF  
25 No. 1205. El Dorado made its settlement payment of \$255,000 and the Ninth Circuit dismissed  
26 El Dorado’s appeal. *See* ECF Nos. 1206 and 1207.

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**e. Mortgages**

**i. Anita Finney Mortgage**

On May 22, 2015, Black Creek Capital LLC sold a Kansas townhouse to Anita Finney, Scott Tucker's assistant, for \$200,000. Ms. Finney executed a promissory note with Black Creek Capital LLC as the lender, a principal amount of \$200,000, and an interest rate of 1.53%. The note requires interest only payments until it matures on May 22, 2020, at which point Ms. Finney is required to pay the entire principal of \$200,000. The note is secured by a mortgage. Ms. Finney has been making her monthly payments. To date, Ms. Finney has paid the monitorship \$5,745.

**ii. Team Property & Investment, LLC Mortgages**

From October 2011 to October 2013, Team Property & Investment, LLC ("Team Property") obtained seven loans from Black Creek Capital Corporation, Real Estate Capital Services LLC, and Westfund LLC to purchase various houses. The loan amounts varied from \$15,570 to \$165,600 with an aggregate principal amount of \$433,720.02. The interest rates are currently 5% with a maturity date of October 14, 2020. The promissory notes are all secured by deeds of trusts. Team Property continues to make monthly payments. To date, Team Property has paid the monitorship \$96,229.24.

**f. Collection Lawsuits**

**i. WhamTech**

The Monitor filed a complaint against WhamTech, Inc. ("WhamTech") to recover approximately \$3 million that WhamTech owes Black Creek Capital Corporation. *See McNamara v. WhamTech, Inc.*, Case No. 2:18-cv-01336-JCM-CWH, ECF No. 1 (D. Nev. July 20, 2018). WhamTech filed its answer and the parties conducted the Rule 26(f) conference. The court approved the parties' discovery plan, which includes a discovery cut-off of March 4, 2019. *See WhamTech, Inc.*, ECF No. 8. WhamTech continues to claim that they will soon have the funding to satisfy their outstanding obligation. In the meantime, we will continue to prosecute the lawsuit against WhamTech.

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1                                    **ii.            Stealth Power**

2            Stealth Power, LLC (“Stealth”) borrowed money on several occasions from Westfund  
 3 LLC via “Factoring and Security Agreements,” which are essentially lines of credit. In early  
 4 2016, Devin Scott, Stealth’s manager exchanged several emails with a Westfund representative  
 5 and proposed that the parties agree to \$533,950 as the amount owed as of January 31, 2016.  
 6 Westfund agreed to the amount owed and reiterated that 18% interest would continue to accrue.  
 7 After making three payments totaling \$114,641, Stealth failed to satisfy its outstanding  
 8 obligation. While Stealth and the Monitor engaged in settlement discussions, they could not  
 9 come to terms and the Monitor brought suit against Stealth. *See McNamara v. Stealth Power,*  
 10 *LLC*, Case No. 2:18-cv-01813-GMN-NJK, ECF No. 1 (D. Nev. Sept. 19, 2018). The deadline  
 11 for Stealth to respond to the complaint is November 15, 2018.

12                                    **iii.            Kendallwood and Milan Loans**

13            The Monitor filed suit against United Resource Holding, LLC (“United Resource”),  
 14 Kendallwood Senior Properties, LLC (“Kendallwood”), Milan Development Group, LLC  
 15 (“Milan”), John Julian, Linda Julian, and Paul Thoma on outstanding loans in Kansas state court.  
 16 Defendants filed their answer in early August 2018.

17            The parties are engaging in discovery, which is scheduled to conclude May 15, 2019,  
 18 with trial scheduled for October 7, 2019. *See McNamara v. United Resource Holdings, LLC, et*  
 19 *al.*, Case No. 18CV03375 (Johnson County, KS).

20                                    **g.            Real Property**

21                                    **i.            Park 269 Aspen House**

22            Park 269, LLC (“Park 269”) owns a multi-million dollar house in Aspen, Colorado. The  
 23 house is subject to the asset freeze and forfeiture order in Scott Tucker’s criminal case in  
 24 Southern District of New York. Scott Tucker has appealed the forfeiture order as to the Aspen  
 25 house. Until the forfeiture is resolved, the Monitor will continue to oversee the house. An  
 26 Aspen property management company manages the rental of the property and the Monitor  
 27 reviews the rental income and expenses monthly. If the forfeiture order is affirmed, the Monitor  
 28 will turn over control of the house to the U.S. Marshals Service.

1                                   **ii.           58-Acre Parcel in Kansas City, KS**

2           Westfund, LLC owns a 58-acre parcel of land located at the corner of Donahoo Road and  
3   Hutton Road in Kansas City, Kansas. The property is approximately 5 miles north of the Kansas  
4   Speedway and Hollywood Casino. Property taxes for the property have been paid. According to  
5   the property tax statement, the appraised value of the property is \$227,080. The Monitor will  
6   continue to oversee this property.

7                                   **iii.           Polo, Missouri Properties**

8           In 2008, Polo Real Estate Holdings, LLC, one of Scott Tucker's many companies,  
9   acquired a four acre parcel of land in Polo, Missouri. According to the DF Services  
10   Corporation's QuickBooks records, the purchase price was \$40,000. Polo Real Estate Holdings,  
11   LLC also acquired a smaller parcel of land in Polo, Missouri (less than one acre). The smaller  
12   parcel may have been transferred without consideration to Mason Daughters, the son of Greg  
13   Daughters. Scott Tucker hired Greg Daughters to do significant automotive restoration and  
14   modification services for several years. We are investigating these two parcels of land.

15                                  **iv.           Three Houses in Kansas City, MO**

16           Black Creek Capital Corporation and Real Estate Capital Services, LLC own three  
17   houses in Kansas City, Missouri. Each property is subject to a "Contract for Deed" whereby the  
18   buyer agrees to purchase the property for a certain amount (i.e., \$18,000, \$21,000 and \$30,000).  
19   The buyers previously made monthly payments to Black Creek Capital Corporation and Real  
20   Estate Capital Services, LLC. We are reviewing the business records to determine whether the  
21   buyers satisfied the "Contract for Deed" and whether any additional payments are outstanding.

22                                  **h.           Vehicles**

23                                   **i.           Sale of 2015 Ferrari 458 Speciale A**

24           After the Court approved the Monitor's motion to sell the 2015 Ferrari 458 Speciale A  
25   (ECF No. 1199), Boardwalk Ferrari sold the vehicle for \$655,000. In August 2018, the  
26   monitorship received \$622,250 from the vehicle's sale (\$655,000 less 5% commission to  
27   Boardwalk Ferrari).

28   ///

1                                    **ii.            Four Vehicles in Polo, MO**

2            DF Services Corporation owns four vehicles that are currently being stored by Greg  
3 Daughters in Polo, Missouri. Scott Tucker had Greg Daughters working on these four vehicles,  
4 which includes two 1960s Ford Mustangs, a 1960s Chevrolet Corvette, and a kit car. These  
5 vehicles were in the process of being built or restored, mixing old cars (i.e., old body) with new  
6 technology (i.e., modern engine and electronics) when Mr. Tucker's assets were frozen.

7                                    **i.            Clawback Targets**

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

11                                **2.            Fraudulent Transfer Complaints**

12            On October 3, 2018, the Monitor's four fraudulent transfer actions were transferred from  
13 Judges Dawson, Dorsey, and Mahan to Chief Judge Navarro. In each case, a motion to dismiss  
14 has been fully briefed.

15                                **3.            Monitorship Bank Accounts**

16            Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for  
17 the period July 31, 2018 through October 31, 2018. During this time period, receipts were  
18 \$2,190,290.59 (\$255,000 El Dorado Trailer Sales settlement funds; \$1,262,039.29 from  
19 EyeVerify; \$622,250 sale of 2015 Ferrari 458 Speciale A; \$26,666.67 payment from Thermex;  
20 \$10,705 checks from various third parties; and \$13,629.63 money market account interest).  
21 Disbursements were \$13,040.95 (\$11,094.60 for Relativity hosting fees; \$644.35 for forensic IT  
22 services; \$975 for private investigators; and \$327 for records storage). In aggregate, the  
23 monitorship bank accounts have a current balance of \$11,866,355.18.

24 Dated: November 14, 2018

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

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of November, 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 SEVENTH INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

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