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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 EIGHTH INTERIM  
REPORT AND ACCOUNT**

Assigned to: Chief Judge Gloria M. Navarro

1 **EIGHTH 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 November 1, 2018 through January 25, 2019.

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 (ECF Nos. 1188 and 1191), which they breached (ECF Nos. 1213-1217  
11 and 1228). Since Mr. Feingold placed the UMR Plant in bankruptcy proceedings, the Monitor  
12 was required to immediately retain bankruptcy counsel to protect the monitorship’s interest.  
13 After realizing that bankruptcy proceedings would not provide any salvation, Mr. Feingold  
14 caused the bankruptcy case to be dismissed. *See In re UMR Building LLC*, Case No. 18-22304-  
15 dls, ECF No. 43 (Bankr. D. Kan. Jan. 15, 2019); *In re United Material Recovery, LLC*, Case No.  
16 18-22309-dls, ECF No. 78 (Bankr. D. Kan. Jan. 17, 2019).

17 We now must move to foreclose on the note in Ohio state court, the site of the real  
18 property. We have retained counsel to do so and are informed it will take several months at a  
19 minimum in a local court. The situation is complicated because the site is a recycling plant,  
20 which Mr. Feingold shuttered with very little warning, and contains mountains of recycling  
21 debris. One estimate provided by the plant manager was that it would cost \$100,000 to remove  
22 the debris. We have also been informed of numerous code violations on the property, and  
23 believe corrective repairs would be more than \$50,000.

24 **b. Eclipse Renewables Asset Sale**

25 As previously reported, Thermex-Thermatron, LP (“Thermex”) agreed to pay \$80,000 to  
26 satisfy their outstanding debt owed to Eclipse Renewables, LLC for Thermex’s repurchase of  
27 microwave generators. *See* ECF No. 1230 at 3. Thermex timely made its second payment of  
28 \$26,666.67. Thermex’s third and final payment is due on April 1, 2019.

1                   **c.       Bartlesville Hotel**

2           Allen Matkins completed their review of the settlement documents, operating agreement,  
3 and management agreement and made their recommendations on how to maximize the  
4 Monitorship Estate's interest in the Bartlesville hotel. We are currently evaluating their  
5 recommendations and will take appropriate action.

6                   **d.       Team Property & Investment, LLC Mortgages**

7           Team Property & Investment, LLC ("Team Property") obtained several loans from  
8 Monitor Entities with an aggregate principal amount of \$433,720.02. Team Property continues  
9 to make their monthly payments. To date, Team Property has paid the monitorship \$102,525.24.

10                  **e.       Collection Lawsuits**

11                   **i.       WhamTech**

12           The Monitor filed a complaint against WhamTech, Inc. ("WhamTech") to recover  
13 approximately \$3 million that WhamTech owes Black Creek Capital Corporation. *See*  
14 *McNamara v. WhamTech, Inc.*, Case No. 2:18-cv-01336-JCM-CWH, ECF No. 1 (D. Nev.  
15 July 20, 2018). As reported in the joint interim status report filed on January 3, 2019, the  
16 Monitor and WhamTech have reached settlement terms and are hopeful to have the case resolved  
17 before any motions practice or trial. *See WhamTech, Inc.*, ECF No. 10 (D. Nev. Jan. 3, 2019).

18                   **ii.       Stealth Power**

19           Stealth Power, LLC filed its answer and admitted that it borrowed money from Westfund  
20 LLC, but disputed the amount owed. *See McNamara v. Stealth Power, LLC*, Case No. 2:18-cv-  
21 01813-GMN-NJK, ECF No. 11 (D. Nev. Nov. 15, 2018). The parties conducted the Rule 26(f)  
22 conference and the court approved the parties' discovery plan, which includes a discovery cut-off  
23 of May 14, 2019. *See Stealth*, ECF No. 14.

24                   **iii.       Kendallwood and Milan Loans**

25           The Monitor filed suit against United Resource Holding, LLC, Kendallwood Senior  
26 Properties, LLC, Milan Development Group, LLC, John Julian, Linda Julian, and Paul Thoma on  
27 outstanding loans in Kansas state court. Defendants John Julian and Paul Thoma have been  
28 deposed. Discovery is scheduled to conclude by May 15, 2019 with trial scheduled for

1 October 7, 2019. *See McNamara v. United Resource Holdings, LLC, et al.*, Case No.  
 2 18CV03375 (Johnson County, KS). We expect that this case will be resolved via motions for  
 3 summary judgment.

4 **f. Park 269 Aspen House**

5 Park 269, LLC owns a multi-million dollar house in Aspen, Colorado, which is subject to  
 6 the forfeiture order in Scott Tucker's criminal case in Southern District of New York. While  
 7 Tucker sought a stay of the forfeiture order pending his appeal, the United States Court of  
 8 Appeals for the Second Circuit recently denied Tucker's stay motion. The Monitor will continue  
 9 to review Park 269 invoices and rental receipts until the U.S. Marshals Service takes control of  
 10 the property.

11 **g. Lawsuit against Intercept Corporation, Bryan Smith, Craig Dresser,**  
 12 **and Connie Mosier**

13 On November 29, 2018, the Monitor filed a complaint for civil conspiracy, aiding and  
 14 abetting fraud, and aiding and abetting breach of fiduciary duty against third-party payment  
 15 processor Intercept Corporation ("Intercept"), Bryan Smith, Intercept's founder, Craig Dresser,  
 16 Intercept's CEO, and Connie Mosier, Intercept's Vice President of Risk Management. *See*  
 17 *McNamara v. Intercept Corp., et al.*, Case No. 2:18-cv-02281-GMN-VCF, ECF No. 1 (D. Nev.  
 18 Nov. 29, 2018). Intercept previously pleaded guilty to violating 18 U.S.C. § 1960(a), (b)(1)(C),  
 19 which prohibits "transport[ing] or transmit[ing] funds that are known to the defendant to have  
 20 been derived from a criminal offense or are intended to be used to promote or support unlawful  
 21 activity," in connection with the activities of three payday lenders, including Scott Tucker. *See*  
 22 18 U.S.C. § 1960(b)(1)(C); *United States v. Intercept Corp.*, Case No. 2:17-cr-00491, ECF No. 1  
 23 (Information), ECF Nos. 6-8 (Plea Documents and Resolution) (E.D. Pa. 2017).

24 Intercept's services enabled Tucker to continue debiting consumers' accounts, despite the  
 25 fact that these debit transactions were returned (i.e., bounced back) at an alarmingly high rate,  
 26 suggesting the charges could be improper. Even though Intercept was aware of these issues,  
 27 Intercept continued to do business with Scott Tucker, allowing him access to their ACH system  
 28 while allowing Intercept to profit handsomely. The Monitor seeks to recover damages the

1 Monitor Entities suffered, which were proximately caused by Intercept's tortious conduct.

2 **h. Clawback Targets**

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

6 **2. Monitorship Bank Accounts**

7 Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for  
8 the period November 1, 2018 through January 25, 2019. During this time period, receipts were  
9 \$44,823.41 (\$26,666.67 payment from Thermex; \$10,114 checks from various third parties; and  
10 \$8,042.74 money market account interest). Disbursements were \$40,459.70, the largest  
11 components of which were retainers and legal fees to bankruptcy and local counsel for the  
12 United Material Recovery bankruptcy (\$12,685); Relativity hosting fees (\$6,743.85); and real  
13 property taxes (\$5,058). In aggregate, the monitorship bank accounts have a current balance of  
14 \$11,870,718.89.

15 Dated: January 29, 2019

16  
17 By: /s/ Thomas W. McNamara  
Thomas W. McNamara, Monitor

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29th day of January, 2019, 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 EIGHTH INTERIM REPORT AND ACCOUNT**, postage prepaid and addressed to the following:

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