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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.,

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

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

**NINTH 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 Interim Report and Account which covers the activities of the Monitor from January 26, 2019 through April 26, 2019.

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

**a. David Feingold Settlement**

As previously reported, David Feingold; Dylan, Jagger Investment, Co. Inc.; Homeowners Realty, LLC; UMR Building LLC; and United Material Recovery, LLC breached their settlement agreement. *See* ECF Nos. 1188, 1191, 1213-1217 and 1228. After Mr. Feingold initiated and later dismissed bankruptcy proceedings for the UMR Plant, we started foreclosure proceedings on the note in Ohio state court, the site of the real property. We also obtained insurance for the recycling plant. Our Ohio counsel continues to prosecute the foreclosure proceedings.

We are in the process of investigating some late 2018-early 2019 transactions by David Feingold that appear to be in contempt of this Court’s orders. The transactions also appear to be fraudulent transfers intended to favor Mr. Feingold and his friends at the expense of the monitorship estate. We have taken David Feingold’s deposition and obtained documents from him. We have also obtained documents from several other witnesses and involved parties, from whom we intend to finalize testimony either by way of deposition or declaration in the new few weeks. We anticipate needing to file one or more proceedings against Mr. Feingold and likely others in order to recover monitorship estate assets. Our efforts to retrieve monitorship estate assets from Mr. Feingold and related parties are ongoing.

**b. Eclipse Renewables Asset Sale**

Thermex-Thermatron, LP (“Thermex”) previously agreed to pay \$80,000 to satisfy their outstanding debt owed to Eclipse Renewables, LLC for Thermex’s repurchase of microwave generators. *See* ECF No. 1230 at 3. On April 1, 2019, Thermex made their third and final payment of \$26,666.66. Thermex fulfilled their obligation and paid \$80,000 to the monitorship.

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

Team Property & Investment, LLC (“Team Property”) continues to make their monthly payments on loans they obtained from Monitor Entities. To date, Team Property has paid the monitorship \$111,916.25.

**d. Leawood, Kansas Property**

Scott Tucker and Kim Tucker’s house in Leawood, Kansas is subject to forfeiture in the Southern District of New York criminal case. Recently, Mrs. Tucker abandoned the Leawood property as well as personal property in the house. After discussions with the U.S. Attorney’s Office of the Southern District of New York, FTC, and IRS on how to protect the Leawood house and personal property, IRS agents took possession of the property in March 2019. While the Leawood house is subject to the Southern District of New York’s forfeiture order, the personal property in the house are assets of the monitorship estate.

Mrs. Tucker also relinquished three vehicles – a Porsche Cayenne, Porsche Panamera and Land Rover LR4. The two Porsches are subject to the Southern District of New York’s forfeiture order and will be sold by the U.S. Marshals in the future. The Land Rover LR4 is not subject to the forfeiture order and is an asset of the monitorship estate. Mrs. Tucker agreed that the Monitor may sell the Land Rover LR4 and the personal property at the Leawood house. The Monitor has prepared an inventory of the personal property and obtained several proposals from liquidators to sell the property. We expect the sale to occur within the next two months.

**e. Collection Lawsuits**

**i. WhamTech**

After the Monitor filed a complaint against WhamTech, Inc. (“WhamTech”) to recover approximately \$3 million that WhamTech owes Black Creek Capital Corporation, the Monitor and WhamTech reached a settlement whereby WhamTech agreed to pay \$3 million over ten months to satisfy its outstanding loans. *See* ECF No. 1240. The Court approved the settlement agreement. *See* ECF No. 1241. To date, WhamTech has paid \$800,000 towards the settlement.

**ii. Stealth Power**

Stealth Power, LLC (“Stealth”) filed its answer and admitted that it borrowed money

1 from Westfund LLC, but disputed the amount owed. *See McNamara v. Stealth Power, LLC*,  
2 Case No. 2:18-cv-01813-GMN-NJK, ECF No. 11 (D. Nev. Nov. 15, 2018). After the Monitor  
3 propounded discovery requests on Stealth, the parties agreed to extend discovery to discuss  
4 potential settlement. The Court granted the parties' request and extended the discovery cut-off  
5 date to August 12, 2019. *See Stealth*, ECF No. 19.

6 **iii. Kendallwood and Milan Loans**

7 In the Monitor's suit against United Resource Holding, LLC, Kendallwood Senior  
8 Properties, LLC, Milan Development Group, LLC, John Julian, Linda Julian, and Paul Thoma on  
9 outstanding loans, trial is scheduled for October 7, 2019. The parties have exchanged  
10 preliminary witness and exhibit lists. Discovery is scheduled to conclude by May 15, 2019 and  
11 the parties will likely file cross-motions for summary judgment. *See McNamara v. United*  
12 *Resource Holdings, LLC, et al.*, Case No. 18CV03375 (Johnson County, KS). We expect that  
13 this case will be resolved via motions for summary judgment.

14 **f. Park 269 Aspen House**

15 After the United States Court of Appeals for the Second Circuit denied Scott Tucker's  
16 motion to stay the criminal forfeiture of Park 269, LLC's multi-million dollar house in Aspen,  
17 Colorado, the U.S. Attorney's Office of the Southern District of New York, FTC, and IRS agreed  
18 to have the Monitor to sell the Aspen property. All costs associated with the sale of the Aspen  
19 property, including the Monitor's and his professionals' fees and expenses, will be deducted  
20 from the proceeds of the sale. Net proceeds from the sale of the real property will be delivered to  
21 the criminal authorities. The Monitor will also sell the personal property in the Aspen house and  
22 the proceeds will be delivered to the monitorship.

23 After interviewing several real estate agents, the Monitor selected James Bineau and  
24 Anita Bineau of Coldwell Banker Mason Morse to sell the Aspen property at a reduced  
25 commission rate. The Aspen property has been listed  
26 (<http://www.flexmls.com/link.html?1g2u2p7yn6zt.2.1.45751>) and there have been multiple  
27 showings and three offers thus far, none of which were acceptable.  
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**g. Lawsuit against Intercept Corporation, Bryan Smith, Craig Dresser, and Connie Mosier**

In response to the Monitor's suit against Intercept Corporation, Bryan Smith, Craig Dresser, and Connie Mosier, the defendants filed their motion to dismiss. *See McNamara v. Intercept Corp., et al.*, Case No. 2:18-cv-02281-GMN-VCF, ECF No. 17 (D. Nev. Apr. 8, 2018). The Monitor opposed the motion, *see id.* at ECF No. 20, and the defendants' reply is pending. While there were some preliminary settlement discussions, these discussions were not fruitful. The parties will begin discovery soon.

**h. Fraudulent Transfer Lawsuits**

The four fraudulent transfer lawsuits filed by the Monitor – *McNamara v. C. Hallinan, et al.* (“*C. Hallinan*”), Case No. 2:17-cv-02966-GMN-NJK, *McNamara v. L. Hallinan, et al.* (“*L. Hallinan*”), Case No. 2:17-cv-02967-GMN-PAL, *McNamara v. Patten, et al.* (“*Patten*”), Case No. 2:17-cv-02968-GMN-NJK, and *McNamara v. Selling Source, et al.*, Case No. 2:17-cv-2969-GMN-CWH – remain at varying stages, as previously reflected in the Monitor's Status Report, dated October 9, 2018 (*C. Hallinan*, ECF No. 51). Additionally, discovery is presently set to close next month in the *C. Hallinan* and *L. Hallinan* cases, and the Monitor anticipates filing motions for summary judgment thereafter.

**i. 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.

**2. Monitorship Bank Accounts**

Attached as Exhibit A is a Receipts and Disbursements Summary for the monitorship for the period January 26, 2019 through April 26, 2019. During this time period, receipts were \$854,403.69 (\$800,000 payment from WhamTech; \$26,666.66 payment from Thermex; \$10,336 checks from various third parties; and \$17,401.03 money market account interest). Disbursements were \$753,520.07, the largest components of which were legal fees (\$553,222.43), Monitor's fees (\$165,166.07), Park 269's Aspen property expenses (\$12,259.38),

1 United Material Recovery's Ohio recycling plant insurance (\$10,963.89) and Relativity hosting  
2 fees (\$9,211.30). In aggregate, the monitorship bank accounts have a current balance of  
3 \$11,971,602.51.

4 Dated: April 29, 2019

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

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

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