

1 Edward Chang (SBN 268204)
echang@mcnamarallp.com
2 McNamara Smith LLP
655 West Broadway, Suite 1600
3 San Diego, California 92101
Telephone: 619-269-0400
4 Facsimile: 619-269-0401

5 *Attorneys for Receiver,*
Thomas W. McNamara
6
7

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 FEDERAL TRADE COMMISSION,
12 Plaintiff,
13 v.
14 APEX CAPITAL GROUP, LLC, et al.,
15 Defendants.

Case No. 2:18-cv-09573-JFW (JPRx)
STATUS REPORT OF RECEIVER
JUDGE: Hon. John F. Walter
CTRM: 7A

16
17
18
19
20
21
22
23
24
25
26
27
28

1 Pursuant to Section XV(W) of the two stipulated preliminary injunctions
2 (ECF Nos. 40 and 41) (collectively, the “Preliminary Injunctions”), directing the
3 Receiver to file reports every 120 days, the Receiver submits this Status Report for
4 the period of March 30, 2019 to July 26, 2019.

5 **I.**

6 **SUMMARY OF RECEIVERSHIP ACTIVITIES**

7 **A. Westlake Village Property**

8 As part of the pending settlement between Defendant Phillip Peikos
9 (“Peikos”) and Plaintiff Federal Trade Commission (“FTC”), Peikos agreed to,
10 among other things, transfer real property located at 740 Country Valley Road,
11 Westlake Village, California 91362 (the “Westlake Village Property”) to the
12 Receiver to sell.¹ See ECF No. 78. On June 5, 2019, the Court granted the
13 stipulation (ECF No. 79) and we took possession of the Westlake Village Property
14 on June 16.

15 Peikos and his former spouse, Gina Manfredi, purchased the Westlake
16 Village Property in January 2015 for \$3,640,000. To finance the purchase, Peikos
17 obtained a \$2,548,000 interest only loan.² After the purchase, most of the interior
18 of the Westlake Village Property was nicely remodeled. However, two and a half
19 bathrooms have been gutted and repairs need to be completed. We are obtaining
20 proposals to finish the bathroom renovations.

21 The exterior of the Westlake Village Property has been largely destroyed. In
22 late 2018, Peikos initiated a remodel of the property’s entire exterior. Instead of
23 paying professionals to demolish the exterior, Peikos rented a Bobcat and
24 essentially destroyed the hardscape, pool, spa, pond, retaining wall, gate pilasters,

25 _____
26 ¹ Also, as part of the pending settlement, Peikos agreed to allow the Receiver to
27 sell other assets, including the Westlake Village Property’s furniture, furnishings,
and equipment, 2017 Jeep Wrangler, camera equipment, domain names,
trademarks, and other items. See ECF No. 78.

28 ² We have been making regular monthly mortgage payments to the lender.

1 mailbox, and other areas, damaging pipes and other equipment in the process.³
2 Peikos' demolition efforts rendered the Westlake Village Property unsellable –
3 except to flippers or all-cash buyers willing to take on someone else's unfinished
4 project and who will pay substantially below market.

5 In order to sell the Westlake Village Property to traditional buyers (i.e.,
6 down payment and mortgage), the bathrooms and exterior need to be completed.
7 While Peikos purchased tile, limestone, and other raw materials and completed
8 parts of the bathrooms and front walkway, a substantial amount of work is required
9 to finish these projects. We are presently obtaining bids. Since this will be a
10 significant expense (at least \$300,000), we will consult the FTC and Peikos after
11 we receive several bids.

12 **B. Receivership Entities' Assets**

13 As previously reported, Peikos envisioned himself as a private equity
14 investor and used the Receivership Entities' funds for various investments. We
15 briefly report on the status of each investment.

16 Jaci was a hair care company in the preliminary startup phase. While certain
17 startup tasks were completed (i.e., shampoo and other product formulations, bottles
18 design and order, trademarks, domain name, etc.), Jaci did not have a business plan
19 and Peikos spent lavishly on overseas trips and product formulation. Jaci also
20 purchased expensive camera equipment. Pursuant to the stipulation and order
21 (ECF Nos. 78 and 79), the Receiver will sell the Jaci domain, trademarks, and
22 camera equipment.

23 For the Cinsay, Inc. ("Cinsay") convertible notes, as previously reported,
24 Cinsay paid the outstanding interest owed on the notes and agreed to continue

25 _____
26 ³ The North Ranch Country Club Estates (the "HOA") imposed fines and daily
27 penalties against Peikos for failing to restore landscaping and removing the facade
28 from the mailbox and entry gate pilasters. We have made efforts to cooperate with
the HOA since taking possession of the house. However, the HOA has made it
difficult to rehabilitate the Westlake Village Property. If the HOA persists, we
may need to bring this to the attention of the Court.

1 making regular interest payments. Peikos also owned Cinsay stock. The Receiver
2 is evaluating how to best liquidate the stock to maximize return.

3 As previously reported, Bright Guard, Inc. (“Bright Guard”) was initially
4 responsive and promised to provide information concerning the Receivership
5 Entities’ investment in the company and the company’s financial information.
6 However, despite several requests, Bright Guard failed to turn over the requested
7 information. Since Bright Guard is a small, closely held corporation, selling the
8 Receivership Entities’ shares in the company may be difficult, but the Receiver
9 will continue to explore potential sales.

10 Peikos provided \$200,000 to Sestito Property Management, LLC (“Sestito”).
11 At the time of the FTC action, Peikos was about to file a lawsuit against Sestito.
12 The Receiver contacted Sestito who confirmed that they received \$200,000, but
13 they claimed that it was an investment and not a loan. Sestito further claims that
14 its financial condition is dire. The Receiver continues to evaluate how best to
15 recover the Sestito funds.

16 As previously reported, a €600,000 loan to a Greek beach club and €1.5
17 million purchase of shares of the same Greek beach club using Receivership
18 Entities’ funds, were completed prior to the FTC action. We engaged Greek
19 counsel to demand repayment of the loan and Cyprus counsel to demand the
20 Cypriot corporation fulfill its purchase agreement and turnover the shares of the
21 Greek beach club to the Receiver. Neither the Greek beach club nor the Cypriot
22 corporation responded to our initial demands. We are evaluating our next step and
23 the prospect of recovery.

24 Finally, we secured the Jeep Wrangler that Peikos acquired with
25 Receivership Entities funds. After Peikos agreed that the Receiver may sell the
26 vehicle, we paid a Puerto Rico body shop a large outstanding invoice and took
27 possession of the vehicle. Peikos delivered the title and we are in the process of

28 ///

1 exporting the Jeep Wrangler from Puerto Rico to Auburn, Indiana where it will be
2 sold at an auction conducted by RM Auctions on August 29-September 1, 2019.

3 **II.**

4 **RECEIVERSHIP ACCOUNTING**

5 Attached as Exhibit A is a Receipts and Disbursements Summary from
6 March 30, 2019 through July 26, 2019. During this time period, receipts were
7 \$373,052.22, primarily comprised of transfers from the Receivership Entities'
8 merchant accounts (\$203,752.66) and promissory note interest payments
9 (\$168,751.87). Disbursements were \$230,356.45, primarily comprised of
10 professional fees approved by the Court on July 11, 2019 (ECF No. 89)
11 (\$83,699.63 for Receiver's fees and costs; \$83,204.08 for legal fees and costs;
12 \$4,094.75 for computer forensics), mortgage payments for the Westlake Village
13 property (\$23,887.50), Relativity hosting fees (\$11,247.90), \$10,000 released to
14 Defendant Phillip Peikos' counsel for attorneys' fees (ECF No. 91), and Jeep-
15 related expenses (\$8,512.28). In aggregate, the receivership bank accounts have a
16 current balance of \$1,313,801.85.

17 Dated: July 30, 2019

MCNAMARA SMITH LLP

18
19 By: /s/ Edward Chang
Edward Chang
20 Attorneys for Receiver,
Thomas W. McNamara
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2019, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all participants in the case who are registered CM/ECF users.

/s/ Edward Chang
Edward Chang
Attorney for Receiver,
Thomas W. McNamara