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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

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FEDERAL TRADE COMMISSION,
Plaintiff,
v.
APEX CAPITAL GROUP, LLC, et al.,
Defendants.

Case No. 2:18-cv-09573-JFW (JPRx)

**RECEIVER'S FIFTH INTERIM
STATUS REPORT**

JUDGE: Hon. John F. Walter
CTRM: 7A

1 Pursuant to Section XV(W) of the stipulated preliminary injunctions entered
2 in this case (ECF Nos. 40 and 41), directing the Receiver to file reports every 120
3 days, the Receiver submits this Status Report for the period of March 27, 2020
4 through July 27, 2020.

5 **I.**

6 **SUMMARY OF RECEIVERSHIP ACTIVITIES**

7 **A. Westlake Village Property**

8 After the Court approved the sale of 740 Country Valley Road, Westlake
9 Village, California 91362 (the “Westlake Village Property”) to David Herrera for
10 \$4.1 million (\$3.95 million for the property and \$150,000 for the personal property
11 and furnishings) on March 13, 2020 (ECF No. 156), escrow was scheduled to close
12 on April 6, 2020. However, due to the COVID-19 pandemic, the buyer had
13 significant difficulty securing a loan to complete the purchase. The pandemic and
14 economic downturn caused many lenders to cease issuing jumbo loans. We
15 endured with the buyer through months of delay and setbacks because Herrera’s
16 sales price was substantially higher than other interested parties. Ultimately,
17 Herrera was able to obtain financing last week and the sale closed yesterday,
18 July 27, 2020. The Receivership Estate received \$1,292,230.46 from the sale of
19 the Westlake Village Property and its furnishings after payment of the outstanding
20 mortgage, property and transfer taxes, HOA fees, fines, and penalties,
21 commissions, title insurance, and escrow fee. We also sold excess construction
22 materials for \$7,500.

23 The Order Granting Stipulation to Allow Receiver to Liquidate Property
24 (ECF No. 79) provides, “[i]f the Net Proceeds from the sale of the Westlake
25 Village Property exceeds \$500,000, within thirty (30) days of the deposit of the
26 Net Proceeds into the Receivership bank account, the Receiver shall cause seventy
27 thousand dollars (\$70,000) to be paid to non-party Gina Manfredi.” As we
28 previously reported, the Receiver was required to spend more than \$460,000 in

1 construction costs; there were also substantial monthly mortgage payments,
2 property insurance, and numerous other expenses to repair and maintain the
3 property. We are in the process of calculating Net Proceeds and do expect them to
4 exceed \$500,000. If so, the Receiver will pay \$70,000 to non-party Gina Manfredi
5 by August 26, 2020.

6 **B. Receivership Entities' Assets**

7 As previously reported, Defendant Peikos used Receivership Entities'
8 proceeds to fund lavish personal purchases and an assortment of investments. *See*
9 ECF Nos. 31, 60, 100, 137, 157. But as we have also described, the investments
10 were haphazard in approach and almost all were incomplete or unsuccessful or
11 both. Updates on two Peikos' investments are provided below.

12 1. Cinsay, Inc.

13 Cinsay, Inc. ("Cinsay"), an unprofitable, early stage video e-commerce
14 technology company, received \$1 million from the Receivership Entities in
15 exchange for ten convertible promissory notes that mature between August 2022
16 and July 2023.¹ Cinsay has continued to pay the promissory notes' interest
17 payments on a quarterly schedule.

18 2. Greek Beach Club

19 As previously reported, the Receivership Entities lent €600,000 to a Greek
20 beach club and paid €1.5 million to purchase shares in the same Greek beach club
21 through an intermediary (a corporation in Cyprus) prior to the FTC action. The
22 Receiver hired counsel in Greece and Cyprus who initially presented demands to
23 the Greek beach club and the Cypriot corporation, but neither responded.

24 After the Cyprus courts re-opened in May 2020, Cyprus counsel filed an
25 action. The Cypriot corporation filed a response denying that the shares in the

26 _____
27 ¹ As we previously reported, Defendants Peikos and Barnett each purchased
28 666,680 shares of Cinsay stock for \$1 million. Subsequent Cinsay stock sales to
other investors (more than 700 million outstanding shares) have diluted any value
the Peikos and Barnett shares may have had.

1 Greek beach club should be transferred to the Receivership Entities. Cyprus
2 counsel proposed a reply and set forth a litigation strategy. However, Cyprus
3 counsel noted that bringing the case to resolution via trial would take at least 4-5
4 years. Cyprus counsel also noted significant litigation risk and the estimated fees
5 and expenses for the next litigation phase were very significant. Based on the risk
6 and expense to pursue the matter, the Receiver has elected to withdraw the action.

7 3. Barnett Artwork

8 As previously reported, the Receiver took control of ten pieces of artwork
9 that Defendant Barnett relinquished pursuant to the Stipulated Order for Permanent
10 Injunction and Monetary Judgment (ECF No. 120). The Receiver retained Upsilon
11 Gallery in New York City to sell the art online early this year. However, due to the
12 COVID-19 pandemic, among other things, the gallery reports there has been little
13 interest in the artwork. We intend to extend the listing agreement with Upsilon
14 Gallery and allow additional time to market the pieces.

15 **II.**

16 **RECEIVERSHIP ACCOUNTING**

17 Attached as Exhibit A is a Receipts and Disbursements Summary from
18 March 27, 2020 through July 27, 2020. During this time period, receipts were
19 \$1,320,043.29, largely comprised of the sale of the Westlake Village Property
20 (\$1,142,230.46) and personal property and furnishings (\$150,000), excess
21 construction materials (\$7,500), and the interest payment on the Cinsay promissory
22 notes (\$20,222.22). Disbursements were \$61,552.58, primarily comprised of costs
23 associated with the Westlake Village property (\$59,478.58). In aggregate, the
24 receivership bank accounts have a current balance of \$1,508,078.91.

25 Dated: July 28, 2020

MCNAMARA SMITH LLP

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27 By: /s/ Edward Chang
Edward Chang
Attorneys for Receiver,
Thomas W. McNamara
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CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2020, 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