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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

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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)

**RECEIVER'S SIXTH INTERIM
STATUS REPORT**

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

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1 Thomas W. McNamara, as Court-appointed receiver (“Receiver”), submits
2 this Status Report for the period through September 30, 2022.

3 This Sixth Interim Status Report summarizes the most important
4 developments since the Receiver’s last formal status report. Additional details on
5 the events discussed herein can be found in the ongoing updates provided to the
6 Court in motions to extend the completion deadline for the receivership and other
7 substantive filings. *See, e.g.*, ECF Nos. 169, 186, 245, 252.

8 **I.**

9 **SUMMARY OF RECEIVERSHIP ACTIVITIES**

10 Since the Receiver’s Fifth Interim Status Report was filed, most of the
11 Receiver’s efforts have been concentrated on pursuing the claims of the
12 Receivership Estate in his litigation against Wells Fargo. Otherwise, the Receiver
13 has continued to make progress on liquidating the few remaining assets of the
14 Receivership Estate as described below.

15 **A. Receivership Entities’ Assets**

16 1. Cinsay, Inc. Promissory Notes

17 As previously noted, Defendant Peikos invested in a number of ventures,
18 most of which were unprofitable. An exception has been the loans made to
19 Cinsay, Inc. (“Cinsay”) (now known as AiBuy), which is an early-stage video e-
20 commerce technology company. Cinsay received \$1 million from the
21 Receivership Entities in exchange for ten convertible promissory notes that began
22 to mature in August 2022 and will continue to mature through July 2023. Cinsay
23 has regularly made the quarterly interest payments it owed under the notes and
24 recently made its first principal payment of \$100,000 in August 2022. The
25 remaining promissory notes will mature monthly through July 2023.

26 2. Greek Beach Club Loan and Investment

27 Peikos made two investments in the Mediterranean using Receivership
28 Estate Funds: a €600,000 loan to a Greek beach club and a €1.5 million investment

1 in that same Greek beach club through the purchase of shares from an
2 intermediary: C.D.L. Developing Ltd. (“C.D.L.”), a corporation in Cyprus. The
3 loan was never repaid, and although Peikos paid C.D.L. for the shares, those shares
4 were never delivered. The Receiver hired counsel in Greece and Cyprus to pursue
5 recovery of both assets.

6 *a. Settlement with C.D.L. Developing Ltd.*

7 The Receiver retained Cypriot counsel and instructed them to initiate
8 litigation against C.D.L. after C.D.L. indicated that it had no interest in settling the
9 Receiver’s claims against it.¹ While that litigation was initially slow to progress
10 due to the COVID-19 pandemic, once it got underway, the Receiver was able to
11 reach a settlement with C.D.L. C.D.L. is to pay a total of €330,000² to the
12 Receivership Estate by September 2024, with the first payment of €130,000 having
13 been made in September 2022. The next payment of €100,000 is due in September
14 2023.

15 *b. Attempts to Secure Repayment of the Loan*

16 The Receiver also retained counsel to try and recover on the loan made to a
17 Greek beach club owned and operated by Highpost Holdings Limited
18 (“Highpost”). While Greek counsel has managed, after some initial difficulty, to
19 make contact with Highpost’s principals, Highpost has so far refused to

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23 ¹ The Receiver has provided a number of reports to the Court on the status of the
24 Cypriot claims and litigation. *See* ECF Nos. 100 (Receiver’s Second Interim
25 Status Report), 137 (Receiver’s Third Interim Status Report), 157 (Receiver’s
26 Fourth Interim Status Report), 158 (Receiver’s Fifth Interim Status Report), 169
(Motion to Extend Completion Deadline), 186 (Motion to Extend Completion
Deadline), 245 (Renewed Motion to Approve Settlement with C.D.L.), 252
(Motion to Extend Completion Deadline).

27 ² The Court approved the Receiver’s proposed settlement of €300,000, but
28 subsequently, the Receiver’s Cypriot counsel was able to get C.D.L. to agree to the
higher amount.

1 acknowledge the debt.³ The Receiver will keep the Court apprised of his efforts
2 with Highpost.

3 3. Artwork Purchased by David Barnett

4 The Receiver took control of ten pieces of artwork that Defendant Barnett
5 relinquished pursuant to the Stipulated Order for Permanent Injunction and
6 Monetary Judgment (ECF No. 120). Despite continuous efforts across multiple
7 sales channels, the Receiver has only been able to sell two pieces of artwork.
8 While the Receiver will continue to market the remaining eight pieces, the art has
9 generated almost no interest thus far despite periodic reductions in the asking
10 prices. The Receiver will continue to keep the Court apprised.

11 **B. Wells Fargo Litigation**

12 The Receiver provided a detailed update on the status of the Wells Fargo
13 Litigation (*McNamara v. Wells Fargo & Co., et al.*, Case No. 3:21-cv-01245 (S.D.
14 Cal.)) in his last motion to extend the completion deadline. *See* ECF No. 252.
15 Since then, Judge Larry Alan Burns denied Wells Fargo's motion to intervene in
16 the *Triangle* matter, which (along with this action) served as the basis for the
17 Receiver's claims against Wells Fargo. Wells Fargo appealed the *Triangle* Order
18 on October 27, 2022.

19 Wells Fargo's appeal of this Court's order denying its motion to intervene
20 here (ECF No. 238) is ongoing. The Receiver and the FTC filed answering briefs
21 on October 11, 2022. Wells Fargo's optional reply brief is due December 1, 2022.

22 **II.**

23 **RECEIVERSHIP ACCOUNTING**

24 Attached as Exhibit A is a Receipts and Disbursements Summary from July
25 28, 2020 through September 30, 2022. During this time period, receipts were

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27 ³ Greek counsel reports that the putative Greek defendants have been informed by
28 Defendant Peikos that the case as to him is over and there is no need to interact
with the Receiver.

1 \$418,483.28, largely comprised of the interest and principal payments on the
2 Cinsay promissory notes (\$280,711.64), the first installment of the settlement
3 proceeds from the Cyprus action (\$121,420.00), and the sale of camera equipment
4 and artwork (\$15,641.75). Disbursements were \$1,410,665.91, primarily
5 comprised of Court-ordered disbursements (\$70,000 to Gina Manfredi related to
6 the sale of the Westlake Village Property, \$1.2 million to the Federal Trade
7 Commission for consumer redress purposes), and Court-approved professional fees
8 and expenses (\$45,225.17 for the Receiver's fees and expenses and \$99,780.32 for
9 fees and expenses of the Receiver's counsel). In aggregate, the receivership bank
10 accounts have a current balance of \$515,896.28.

11 Dated: October 28, 2022

MCNAMARA SMITH LLP

12 By: /s/ Cornelia J. B. Gordon

13 *Cornelia J. B. Gordon*
14 *Attorneys for Receiver,*
15 *Thomas W. McNamara*

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CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2022, 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/ Cornelia J. B. Gordon
Cornelia J. B. Gordon
Attorney for Receiver,
Thomas W. McNamara