

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 08-5348 (ADM/JSM)

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
)
)
1. THOMAS JOSEPH PETTERS;)
PETTERS COMPANY, INC., aka)
PCI; PETTERS GROUP WORLDWIDE, LLC;)
2. DEANNA COLEMAN, aka DEANNA MUNSON;)
3. ROBERT WHITE;)
4. JAMES WEHMHOFF;)
5. LARRY REYNOLDS, dba)
NATIONWIDE INTERNATIONAL RESOURCES)
aka NIR;)
6. MICHAEL CATAIN, dba)
ENCHANTED FAMILY BUYING COMPANY;)
7. FRANK E. VENNES JR., dba)
METRO GEM FINANCE,)
METRO GEM INC.,)
GRACE OFFERINGS OF FLORIDA LLC,)
METRO PROPERTY FINANCING, LLC,)
38 E. ROBINSON, LLC,)
55 E. PINE, LLC,)
ORLANDO RENTAL POOL, LLC,)
100 PINE STREET PROPERTY, LLC,)
ORANGE STREET TOWNER, LLC,)
CORNERSTONE RENTAL POOL, LLC,)
2 SOUTH ORANGE AVENUE, LLC,)
HOPE COMMONS, LLC,)
METRO GOLD, INC.;)
Defendants.)
)
DOUGLAS A. KELLEY,)
Receiver,)
)
GARY HANSEN,)
Receiver.)

FIFTH REPORT OF RECEIVER DOUGLAS A. KELLEY

Douglas A. Kelley, the undersigned receiver for all defendants except Frank E. Vennes, Jr. and his entities, submits this report summarizing major activities undertaken since his last report.

A. INDIVIDUAL DEFENDANTS

1. Tom Petters

a. Receivership Account

Balance on June 19, 2009	\$629,356.97
Deposits during period	260,004.11
Expenses paid during period	<u>(372,592.36)</u>
Balance on August 13, 2009	\$516,768.72

b. Receivership Activity

Preservation-of-assets expenses such as insurance, utility charges and maintenance expenses are being paid. Monthly child support authorized by the Court is being paid to Tracy Mixon. Child care expenses and COBRA health insurance premiums for the children are also being paid. The nanny was released on July 31, 2009 at the request of Ms. Mixon through her attorney. Nanny compensation and benefits were paid through the date of termination.

Insurance and utility service has been canceled for assets sold by the Receiver. Unearned insurance premium refunds and utility deposit refunds have been deposited into the Receiver's account.

The Manalapan, Florida residence was sold for \$9,475,000. The gross sales price was reduced by the mortgage payoff, accrued property taxes, realtor commissions and other

selling costs, leaving net proceeds from the sale of \$107,077.82, which was deposited into the Receiver's account.

Redstone Grill stock was sold for \$75,000. The sale proceeds were deposited into the Receiver's account. As a condition of the sale, the Receiver obtained a three-year option to repurchase the stock.

The annual contract for deed payment of \$27,037 relating to the Big Watab Lake property was received and deposited into the Receiver's account.

A periodic distribution from Lenders Trust LLC was received and deposited into the Receiver's account.

The listing price for the Wayzata, Minnesota residence has been further reduced to \$6,750,000 to reflect current market conditions. There have been showings and some buyer interest, but no acceptable offers have been received to date.

Two parcels of land in Summit County, Colorado remains on the market, one with a listing price of \$17,000,000 and the other listed for \$2,200,000.

2. Deanna Coleman

a. Receivership Account

Balance on June 18, 2009	\$2,548,182.12
Deposits during period	0.00
Expenses paid during period	<u>(18,048.00)</u>
Balance on August 12, 2009	\$2,530,134.12

b. Receivership Activity

Deanna Coleman’s Plymouth, Minnesota home and Costa Rica property remain on the market. The Receiver’s team continues to oversee sale efforts and respond to suggestions from the real estate listing agents. The Receiver continues to receive offers on the Costa Rica property but to date none have been deemed sufficient to seek Court approval for a potential sale.

Negotiations with a third party who received proceeds from bonuses paid to Ms. Coleman by PCI in 2007 and 2008 were finalized and a stipulation has been filed with the Court. If the stipulation is approved, the Receiver will take possession of a number of personal assets purchased with approximately \$300,000 of the bonus funds, including a camper, trailer, storage unit and 4-carat diamond ring and will market those items for sale as approved by the Court.

3. Robert White

a. Receivership Account

Balance on June 19, 2009	\$2,779,791.12
Deposits during period	629.42
Expenses paid during period	<u>(38,274.44)</u>
Balance on August 12, 2009	\$2,742,146.10

b. Receivership Activity

Robert White’s 65-foot Kanter sailboat remains listed for sale with a broker. Offers have been received but none is in an amount deemed acceptable by the Receiver. The Receiver’s team continues to work with the broker and caretaker to preserve this asset and obtain a reasonable sale price.

\$500 in net proceeds from the sale of a Ski Natique boat and trailer were deposited into White's individual receivership account. A Crown Bank checking account for White's company, Great Northern Mercantile Limited, was also liquidated and the proceeds were deposited into his individual receivership account.

4. James Wehmhoff

a. Receivership Account

Balance on June 17, 2009	\$1,695,354.38
Deposits during period	162,559.68
Expenses paid during period	<u>(81,843.56)</u>
Balance on August 12, 2009	\$1,776,070.50

b. Receivership Activity

A reasonable purchase offer was received for real property owned by Mr. Wehmhoff's company, Intrepid Investments, LLC, and its sale for \$185,000 was approved by the Court. After deducting costs associated with the sale, net proceeds of \$149,959.68 were deposited into Wehmhoff's individual receivership account. A second home owned by Intrepid has been listed for sale. The Receiver's team continues to oversee the property and respond to suggestions from the real estate listing agent.

Members of the Receiver's team are evaluating personal assets including boats and other recreational vehicles. Values are being determined so those assets can be sold.

5. Michael Catain

a. Receivership Account

Balance on June 19, 2009	\$1,545,367.64
Deposits during period	256,051.29
Expenses paid during period	<u>(94,915.17)</u>
Balance on August 13, 2009	\$1,706,503.76

b. Receivership Activity

The sale of Catain's property at 4550 Enchanted Point was closed on August 4, 2009. Net proceeds from the sale of the property in the amount of \$1,274,363.40 were placed in escrow pending resolution of claims made by Mr. Catain's wife. As part of the sale, the Receiver was reimbursed for \$126,725.70 in expenses incurred in connection with the property.

Catain owned another parcel of property located at 4340 Enchanted Drive. After the Receiver determined costs to sell that home would exceed available equity, the Receiver sought and obtained Court approval to turn the property over to the lender holding its mortgage. The Receiver also determined that a condominium unit located at 929 Portland Avenue in Minneapolis, Minnesota likewise lacks any equity. A stipulation requesting authority to turn that property over to its mortgage lender was approved by the Court on August 14, 2009.

The Receiver obtained a \$56,000 purchase offer for a 29-foot Proline Grand Sport boat owned by Catain. The Court approved the sale on August 14, 2009.

The Receiver's team continues to research the value of property in Maricopa County, Arizona in which Mr. and Mrs. Catain have a contract-for-deed interest.

The Receiver recently learned that Catain owns an ice boat housed in White Bear Lake, Minnesota. Efforts are being made to value and market that boat.

Net proceeds in the amount of \$62,350 from the sale of a Mercedes automobile were deposited into Catain's individual receivership account. Approximately \$64,000 in additional funds were received from digital sales of recordings held by one of Catain's companies, Calvin Records, and were deposited into Catain's individual receivership account.

6. Larry Reynolds

a. Receivership Account

Balance on June 19, 2009	\$1,381,574.62
Deposits during period	4,166.67
Expenses during period	<u>(46,208.80)</u>
Balance on August 13, 2009	\$1,339,532.49

b. Receivership Activity

The Receiver negotiated a new listing agreement for Reynolds' Las Vegas property. The property is listed for sale at a price of \$3,750,000. The current mortgage balance on the property is approximately \$2,300,000. The Receiver recently rejected a \$2,430,000 purchase offer after determining that the sale price was too low to seek Court approval.

The Receiver is obtaining an appraisal of Mr. Reynolds' Hollywood, California property in preparation for a sale listing.

B. TAX COMPLIANCE

The Receiver continues to work with outside counsel and its accountants to prepare required tax returns for the individuals and entities under his control.

C. ACTIVITIES OF PROFESSIONALS RETAINED BY RECEIVER

1. Lindquist & Vennum

Lindquist & Vennum has been involved in the following activities since the last report.

a. Central America Holdings. Lindquist & Vennum has worked with Central America Holdings to collect amounts due under a secured note. An additional \$500,000 has been received by the receivership estate from these efforts since the last report. An additional payment of \$250,000 is due August 21 and a final \$1,500,000 payment is due September 15, 2009.

b. Petters Aircraft Leasing. The firm represented the Receiver in negotiations between Petters Aircraft Leasing and CIT involving the return of three Boeing 737-800 jets to CIT. As a result of the deal, Petters Aircraft Leasing received \$3,000,000 and an assignment of certain claims that CIT alleges to have against Sun Country Airlines. This was a significant issue that needed to be resolved for both Petters Aircraft Leasing and Sun Country.

c. BroadSign Sale. Lindquist & Vennum represented PGW in the sale of its 16% interest in BroadSign International, Inc., a provider of software services to owners of digital sign networks. \$300,000 was received for the stock and PGW will receive an

additional \$56,000 in exchange for a release of any trade liabilities owed to PGW.

d. Intellectual Property. The firm represented the Receiver with respect to various intellectual property holdings, included those related to SpringWorks, Fidelica, Polaroid Labs, SoniqCast, and PGW. Duties have included assessing value and making recommendations to the Receiver about maintenance costs and ongoing patent prosecution fees that arise while the Receiver attempts to sell those assets.

e. D&O Insurance. The firm continues to pursue efforts to obtain reimbursement from insurance carriers that provided directors and officers (D&O) coverage to PCI, PGW and Thomas Petters, Inc. A recent order from the bankruptcy court lifted the automatic stay and allowed the insurer to pay claims up to \$7,500,000 of the total coverage amount to the Receiver. Discussions with the insurer, through counsel, remain ongoing in an effort to resolve the claims.

2. Petters Group Worldwide Team

A number of former employees, working at reduced salaries, continue to support research needs and support the Receiver, PwC, Lindquist & Vennum and others by providing institutional knowledge and project support. Among the key services provided during the period covered by this report are the following:

a. Real estate support. Continued work toward closing a sale of property located on Long Island, The Bahamas. Took possession of property located in Winter Park, Florida and are working with a realtor to obtain an acceptable purchase price for that property. Assisted in the sale of the Tam O'Shanter Lodge in Bayfield, Wisconsin for

\$916,500. Net sale proceeds of \$897,795.17 have been escrowed pending resolution of certain claims against the property. Provided assistance to the Receiver with respect to many of the sales of real estate owned by individual receivership defendants more fully described above.

b. **Stock/Business Interest Holdings.** Assisted with the sale of the Redstone Grill and BroadSign stock sales described above. Helped negotiate the sale of unused flight time back to Net Jets for \$82,324. Assisted the Receiver to evaluate and develop a potential sale strategy for a variety of intellectual property holdings and performed initial work on an expected auction of internet domain names held by PGW.

c. **Tax Support.** Provided information to PwC regarding income tax returns, corporate entities and cash transfers to assist in preparation of required tax returns.

d. **Record Retention.** Partnered with PwC and Lindquist & Vennum to secure historical information and ensure appropriate access for long-term litigation and other needs.

3. **Price Waterhouse Coopers (PwC)**

PwC provided the following services to the Receiver during the period covered by this report:

a. **Tracing Sources and Uses of Funds.** PwC remains in discussions with bank representatives to obtain supporting documentation for certain PCI and PGW bank accounts identified by its investigation. PwC conducted a search of hard copy files stored at PGW in Minnetonka, Minnesota to identify additional bank statements and notes payable.

PwC continues to analyze and categorize cash flows in and out of the bank account data received to date.

PwC is also refining an inventory and timeline of notes payable that PCI and certain PGW entities entered into with investors. PwC is matching investor note activity to bank account transactional data and notes payable documents. PwC will use these analyses to summarize the principal and interest paid each year to each investor and to determine any outstanding principal and interest amounts.

b. Intercompany Analysis. PwC has performed a preliminary review of transactions across various Petters entities. Information considered to date includes financial statements, bank statements, accounting data and a limited review of e-mail.

c. Electronic Discovery. PwC continues to work with PGW and Polaroid IT employees to preserve electronic data and hard copy documents. A subset of this data has been loaded into a centralized repository for review.

d. Tax Compliance Services. PwC continues working on the tax return preparation process for the Petters Entities. Included in this effort is significant progress towards completing the 2008 Forms 1120, 1120S and 1065 business tax returns for certain Petters entities. In addition, PwC has begun preparing 2008 Forms 1040 for individual receivership defendants.

4. Tonya Rosso

Tonya Rosso provided the following services to the Receiver during the period covered by this report:

a. Maintenance of Books and Records of Individual Defendants. Ms. Rosso obtained records of all cash transactions for individual receivership defendants Thomas Petters, Michael Catain, Deanna Coleman, James Wehmhoff, Larry Reynolds and Robert White. She categorized payments made on behalf of each defendant and recorded cash receipts from asset sales, account liquidations and other miscellaneous transactions, maintaining a record of the fund balance for each individual defendant.

Original source documents are maintained and housed under the control of the Receiver. Ms. Rosso reconciled her records to the source documents independently to ensure completeness and accuracy. Records are maintained in accounting software for purposes of transparent record keeping and to document ongoing activity performed by the Receiver respecting individual defendants.

b. Tracking Asset Sales and Related Expenses. Ms. Rosso tracked pending and completed asset sales and segregated expenses directly related to each asset.

Respectfully submitted,

KELLEY & WOLTER, P.A.

Dated: August 18, 2009

s/Douglas A. Kelley
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