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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JOHN WAYNE ZIDAR, et al.,

Defendants.

No. C00-823C

**RECEIVER’S FOURTH
SUPPLEMENTAL REPORT
REGARDING ASSET RECOVERY
EFFORTS AND CASE STATUS**

**NOTE FOR MOTION:
May 11, 2007**

COMES NOW the court-appointed Receiver who submits this report in compliance with the Court’s October 24, 2006 Order Directing the Receiver to Continue Asset Recovery Efforts and Submit Supplemental Report (“Order”). The Order directed the Receiver to report to the Court within six (6) months regarding the status of this case, asset recovery efforts and a supplemental distribution plan.¹

The Receivership has recovered an additional \$53,222.96 worth of assets since the Receiver’s last report, but the total amount of funds available for a supplemental and final

¹This report was filed a day later than the deadline that was set forth in the October 24, 2006 Order so that the Receiver could incorporate information gathered at two depositions taken last week.

1 distribution will not be known until all assets have been liquidated and the proceeds transferred
 2 to the receivership. The Receiver has made considerable progress investigating dozens of the
 3 Zidar defendants' transactions, and only a few assets have not been sold, including real property
 4 in San Jose, Costa Rica. The Receiver estimates that the assets identified in Section II.A below
 5 could increase the Receivership Assets by as much as \$400,000.00. As well, the Special
 6 Receiver has yet to conclude its investigation of C.W. Sullivan. The Receiver respectfully
 7 suggests that it would be premature to recommend a final pro rata distribution plan since not all
 8 assets have been liquidated.
 9

10 The following discussion explains the work that has been accomplished since the
 11 Receiver's Third Supplemental Report. The Receiver asks the Court to direct the Receiver to
 12 continue its work and update the Court on the timeframe for a final distribution plan within six
 13 month's of the Court's review of this report.
 14

15 **I. Current Balance of Receivership Assets**

16 The following table summarizes the Receiver's investment account activity since the
 17 August 22, 2006 Third Supplemental Report Regarding Asset Recovery Efforts and Case Status.
 18 The funds, listed below, have not been distributed to the defrauded investors.
 19

<i>Date of Activity</i>	<i>Type of Activity</i>	<i>Investment Account Balance</i>
08/24/2006	(\$40,011.49) Payment to Scott Pfeiffer ²	\$912,910.79
08/24/2006	(\$1,500.00) Payment to Russell Mitchell ³	\$911,410.79
08/31/2006	\$1,996.60 Interest Income	\$913,407.39
09/19/1006	\$13,500.00 Proceeds from Chinese bonds ⁴	\$926,907.39
09/27/2006	(\$450.00) Payment to Henry Lang ⁵	\$926,457.39

26 ²Pursuant to July 21, 2006 Order Approving Agreement to Transfer Trust Funds to Receivership and Directing
 27 Payment of Trustee's Attorney Fees.

³Payment to Russell Mitchell, local counsel in Utah regarding civil action against James Haslem.

28 ⁴Proceeds from sale of 500 Chinese bonds by bond dealer Scott Winslow.

1	09/30/2006	\$2,342.91	Interest Income	\$928,800.30
2	09/30/2006	(\$10.00)	Bank Fee	\$928,790.30
3	10/02/2006	(\$1,084.31)	Receiver Costs ⁶	\$927,705.99
4	10/27/2006	\$6,000.00	Funds from Juan Alvarez ⁷	\$933,705.99
5	10/27/2006	(\$68,936.50)	Receiver Fees ⁸	\$864,769.49
6	10/31/2006	\$2,448.83	Interest Income	\$867,218.32
7	11/07/2006	(\$5,818.85)	Payment to Special Receiver ⁹	\$861,399.47
8	11/30/2006	\$2,217.58	Interest Income	\$863,617.05
9	11/30/2006	(\$1,103.50)	Payment to Henry Lang ¹⁰	\$862,513.55
10	11/30/2006	(\$557.00)	Payment re: Costa Rica property ¹¹	\$861,956.55
11	12/11/2006	(\$1,000.00)	Payment for James Haslem bond ¹²	\$860,956.55
12	12/29/2006	\$20,222.96	Proceeds from sale of Phillips' Coins ¹³	\$881,179.51
13	12/31/2006	\$2,335.60	Interest Income	\$883,515.11
14	12/31/2006	(\$50.00)	Bank Fee	\$883,465.11
15	01/11/2007	\$13,500.00	Proceeds from Chinese bonds ¹⁴	\$896,965.11
16	01/18/2007	(\$410.00)	Payment to Henry Lang ¹⁵	\$896,555.11
17	01/31/2007	\$2,387.50	Interest Income	\$898,942.61
18	02/28/2007	\$2,173.28	Interest Income	\$901,115.89
19	02/28/2007	(\$10.00)	Bank Fee	\$901,105.89
20	03/07/2007	(\$920.34)	Receiver Costs ¹⁶	\$900,185.55
21	03/08/2007	(\$93.71)	Payment to Special Receiver ¹⁷	\$900,091.84
22	03/16/2007	(\$1923.82)	Receiver Costs ¹⁸	\$898,168.02
23	03/31/2007	\$2,402.71	Interest Income	\$900,570.73

⁵Payment to Henry Lang, local counsel in Costa Rica, who is helping with acquisition and sale of commercial property.

⁶Pursuant to May 19, 2003 Order Granting Receiver's Motion for Clarification.

⁷This is the remainder of funds transferred from Costa Rican attorney Juan Alvarez after the foreclosure action against Guillermo Cubas' residential real property did not yield funds sufficient to repay the funds he received from Elizabeth Ann Phillips.

⁸Pursuant to October 24, 2006 Order Granting Receiver's Motion for Attorney Fees.

⁹Pursuant to November 6, 2006 Order Directing Special Receiver to Continue Investigation of Sullivan Transaction and Order Approving Fees and Costs.

¹⁰Payment to Henry Lang, local counsel in Costa Rica.

¹¹Fees paid Mabinsa, property manager of office condominium owned by Receivership in Costa Rica that the Receiver currently is attempting to sell.

¹²Bond required by Utah court in order to obtain default judgment against James Haslem.

¹³Pursuant to December 14, 2006 Order Granting Motion to Incorporate Elizabeth Anne Phillips' Gold and Silver Coins into Receivership Assets.

¹⁴Proceeds from sale of 500 Chinese bonds by bond dealer Scott Winslow.

¹⁵Payment to Henry Lang, local counsel in Costa Rica.

¹⁶Pursuant to May 19, 2003 Order Granting Receiver's Motion for Clarification.

¹⁷Pursuant to February 27, 2007 Order Directing Special Receiver to Continue Investigation of Sullivan Transaction and Order Approving Fees and Costs.

¹⁸Pursuant to May 19, 2003 Order Granting Receiver's Motion for Clarification.

II. Ongoing Asset Recovery Investigations

The March 27, 2001 Order Appointing Receiver directed the Receiver to take custody, control and possession of property known as the Receivership Assets and to marshal, conserve, hold, and manage those assets. The Receiver has worked diligently to recover potential assets in a cost-effective manner and understands that it is not useful or beneficial to the victims of this fraud to pursue assets at a cost greater than the potential return on the asset. Accordingly, the Receiver is mindful not to deplete the Receivership Assets as he winds up this matter. The following discussion provides a status report on the Receiver's work to date.

A. Assets the Receiver Expects to Recover and Incorporate in the Final Distribution

The Receiver has focused the majority of his time and effort on the following matters that are expected to result in a monetary recovery.

(1) Chinese Bonds

Pursuant to the Court's October 27, 2005 Order, the Receiver has arranged to sell Chinese Government 5% Reorganization Gold Loan of 1913 bonds for collector's value. The Receiver hired bond dealer Scott J. Winslow Associates, Inc. to assist with the sales and has sold 1,000 bonds for \$27,000.00 to date. The Receiver initially shipped 1,424 bonds to Winslow. After the United States Postal Inspection Service located additional bonds, the Receiver delivered 456 more bonds to Winslow on February 15, 2007. As a result, Winslow currently controls 880 bonds and he continues to market the bonds that remain in his possession.

(2) Belize Trust - San Jose, Costa Rica Office Condominium

Criminal defendant Elizabeth Ann Phillips placed approximately \$625,000.00 in a trust created in Costa Rica, known as the "Belize Trust." A significant portion of those funds were lost through poor investments. However, the Belize Trust trustees produced an accounting,

1 which showed that some real property and cash assets remained in the trust.

2 On July 20, 2006, the Court issued an order approving the transfer of assets from the
3 Belize Trust to the receivership. On August 16, 2006, the Belize Trust trustee transferred
4 possession of real property to the Zidar Receivership S.R.L., a corporate entity in Costa Rica.
5 The real property is an office condominium located in San Jose, Costa Rica. On August 17,
6 2006, the Belize Trust trustee wired \$225,934.99 to the receivership. The Receiver's local
7 counsel in Costa Rica is helping to market the real property so that it can be sold at fair market
8 value as quickly as possible. The Receiver has engaged two separate real estate agents, and the
9 property is listed for sale at a price approximating \$188,000.00.
10

11 (3) Bahamas Fund

12 On October 19, 1999, Phillips wired \$255,000.00 to an account controlled by Mark
13 Cohen at a Citibank branch in Florida. It was understood that the funds would be invested in an
14 entity called either the Bahamas Fund or Glocap Holdings. On November 23, 2005, the Receiver
15 served a subpoena on Citibank for Cohen's bank statements. Citibank responded to the
16 subpoena and provided records on January 4, 2006.
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19 The Citibank records revealed that Cohen moved to Carlisle, Massachusetts, and the
20 Receiver located Cohen on or about February 27, 2006. In subsequent telephone conversations
21 with the Receiver's office, Cohen claims the funds were intended to fund a movie production.
22 He also claims that \$154,500.00 was returned to Tradewinds Holding and Michelle von Wald in
23 Florida. Cohen claimed that the remaining \$100,500.00 was placed in an account in France and
24 later seized by agents of the French government. Despite numerous requests, Cohen has
25 repeatedly refused to provide contact information for other witnesses with knowledge of the
26 status of the funds in France.
27
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1 On April 18, 2007, the Receiver took the deposition of Mark Cohen.¹⁹ Cohen made
2 statements under oath which were inconsistent with evidence we have subsequently discovered
3 and with statements made by Michelle von Wald in her deposition on April 20, 2007. He
4 provided the contact information for witnesses that he previously refused to disclose. Our
5 investigation of Cohen and his obligation to repay the Receivership will continue.
6

7 The Receiver located von Wald in Miami, Florida on June 6, 2006. von Wald claims that
8 she never received Zidar funds from Cohen.

9 By subpoena, the Receivership has obtained both von Wald's Turnberry Bank account
10 records and her Florida Savings Bank account records. Cohen also provided IBJ Whitehall bank
11 wire records that indicate \$55,000.00 was wired to von Wald.²⁰ von Wald's Turnberry Bank
12 records confirm the fact that von Wald did indeed receive significant funds, but the source of
13 those funds could not be determined.
14

15 On August 31, 2006, von Wald forwarded to the Receiver a letter that her mother
16 received from a law firm (B.M.B. & Associes) in Paris, France. The Parisian firm claims to have
17 represented von Wald's mother's interest in an effort to recover funds that were seized by the
18 French government.
19

20 On or about February 8, 2007, via communications with an attorney (Sophie Bottai) in
21 Marseille, France, the Receiver contacted French attorney Christopher Boinet, who works at
22 B.M.B. & Associes in Paris.
23
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26 ¹⁹The Receiver is grateful to Mr. Wayne Budd, a former Department of Justice colleague, and his Boston law firm,
27 Goodwin Proctor, for providing a conference room and staff support for this deposition at no charge to the
28 Receivership.

²⁰The Mizuho Corporate Bank controls IBJ Whitehall Bank. On or about April 4, 2007, Mizuho produced Cohen's
IBJ Whitehall bank account records.

1 On March 7, 2007, the Receiver's office interviewed Mr. Boinet by phone. Boinet
2 confirmed that United States residents hired his firm to recover funds that were seized by the
3 French government. He also confirmed that the funds were seized in connection to a criminal
4 investigation. Boinet stopped working on the matter in 2003 when the plaintiffs ceased making
5 payments for his services. He promised to forward contact information for the local prosecutor
6 that handled the case. Boinet expressed confidentiality concerns and was unwilling to disclose
7 any other details concerning this case.
8

9 On April 20, 2007, the Receiver took the deposition of Michelle von Wald.²¹ At the end
10 of the three hour and forty-five minute deposition, von Wald agreed to repay the Receivership
11 \$154,500.00. The terms of the Agreement will be finalized by Friday, April 27, 2007.
12

13 (4) James Haslem

14 Zidar loaned James Lynn Haslem \$125,000.00 to explore a deal with Saudi Arabian
15 investors. Haslem acknowledged the loan during the criminal trial and claimed the loan was
16 secured by a lien on his home.
17

18 The Receiver sued Haslem in Utah state court and obtained a default judgment on
19 January 2, 2007. The Receiver's local counsel interviewed Haslem on or about February 6, 2007
20 regarding his ability to satisfy the judgment. Discussion continues with Haslem, and the
21 Receiver expects to settle this matter in the near future.
22

23 **B. Matters that Do Not Warrant Further Investigation**

24 The Receiver has concluded that the following potential claims are either worthless or the
25 cost to prosecute would likely exceed the amount of recovery.
26

27 _____
28 ²¹The Receiver is grateful to Mr. Atlee Wampler, and his Miami law firm, Wampler Buchanan Walker Chabrow & Banciella, for providing a conference room and staff support for this deposition at no charge to the Receivership.

1 (1) Antemin Trust

2 On December 23, 1999 and February 16, 2000, a total of \$300,000.00 was wired from the
3 Zidar defendants' Washington Mutual account to the Antemin Trust account at the Bank of
4 Nevis in Nevis, West Indies. The Century Trust Company, Ltd. in Zetlands, Nevis, West Indies
5 is listed as the Antemin Trust trustee.

6 On November 9, 2005 and January 13, 2006, the Receiver sent correspondence to counsel
7 for the Bank of Nevis asking for assistance tracing funds through the Antemin Trust account. On
8 February 17, 2006, counsel for the Bank of Nevis expressed a willingness to cooperate but asked
9 our office to seek the information through the Director of Public Prosecutions of St. Christopher
10 and Nevis pursuant to local statute. The Receiver contacted the Director of Public Prosecutions
11 ("Director") in St. Kitts, West Indies on March 31, 2006. The Director did not respond until late
12 May 2006. He agreed to review the matter but has not taken any action to date.

13 On July 26, 2006, the Receiver asked the United States Attorney's Office to employ the
14 power of the United States/St. Kitts Mutual Legal Assistance Treaty by requesting that the
15 Department of Justice's Office of International Affairs use the treaty to access the bank
16 information.

17 The United States Attorney's Office in turn asked the Internal Revenue Service to
18 investigate this matter and examine whether it is possible to trace these funds. On October 7,
19 2006, the United States Attorney's Office reported that the Internal Revenue Service determined
20 that the Bank of Nevis account was dormant and virtually empty. The Internal Revenue Service
21 was unable to locate an Antemin Trust in the Nevis Offshore Registry. Based on the United
22 States Attorney's Office's investigation and due to the fact that the account has no assets, the
23 Receiver has decided not to pursue this matter further.

1 (2) Gold & Silver Reserve, Inc.

2 Gold & Silver Reserve, Inc. (“GSR”), a privately-held company, is operational, but has
3 not been profitable for several years. The Zidar defendants spent \$2,450,000.00 to purchase
4 425,000 shares in GSR. Dr. Douglas Jackson, the president and primary shareholder of GSR,
5 reported in January 2006 that the company had improved its financial outlook, but that a search
6 warrant had been executed at his home and office pursuant to a grand jury. Forfeiture
7 proceedings also were pending in the United States District Court for the District of Columbia.
8 *United States v. All Funds Seized From or on Deposit in Sun Trust Account*, No. 1:05-cv-02497-
9 RMC. Pursuant to the government’s forfeiture proceeding, \$726,218.91 has been seized.
10

11 The Receiver considered having the company audited or valued by an independent
12 appraiser. The Receiver made inquiries and believes it would cost at least \$10,000.00 to conduct
13 such an audit. In light of the forfeiture proceedings, the Receiver asked Dr. Jackson for a list of
14 shareholders so that the Receiver could attempt to sell its corporate stock. Dr. Jackson did not
15 respond, and on September 7, 2006, the Receiver served a subpoena on GSR for its shareholder
16 list. The company provided a list of addresses for 53 known shareholders on September 12,
17 2006.
18

19
20 On October 5, 2006, the Receiver offered to sell its GSR shares to the address list
21 provided by GSR. Unfortunately, mail was returned for 20 of the addresses provided by GSR.
22 The Receiver asked GSR’s counsel to provide a complete and accurate list on November 9,
23 2006. On January 15, 2007, GSR’s counsel provided updated addresses for the 20 ineffective
24 addresses. And on January 24, 2007, the Receiver offered to sell its shares to these additional
25 shareholders. No shareholder has responded to the Receiver’s solicitation.
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1 Given the criminal investigations and legal proceedings that have embroiled GSR, the
2 Receiver believes the GSR shares have little value. On March 30, 2007, the Receiver offered to
3 sell the GSR shares back to GSR and Dr. Jackson for \$20,000.00. GSR countered with a
4 \$5,000.00 proposal. The parties continue to attempt to resolve this matter.

5
6 (3) Internet Transactions Transnational, Inc.

7 On January 6, 2000, defendant Moreland wired \$250,000.00 to an account in Bermuda
8 for the benefit of Internet Transactions Transnational, Inc. ("ITTI"), a privately-traded
9 corporation in Virginia. ITTI develops virtual private networks for high-security internet
10 transactions.

11 The Receiver has worked with James Bennett, the principal owner of ITTI, to find
12 potential investors who would be interested in purchasing the shares that Zidar and his associates
13 purchased. As previously reported, ITTI has assets only in intellectual property and no ongoing
14 operations. Like GSR, the Receiver believes this entity has no value. Moreover, as of the date
15 of this report, neither government investigators nor ITTI could confirm the location of the ITTI
16 shares. The Receiver believes further efforts regarding this matter would only deplete the
17 Receiver's resources with little or no chance of a return.

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20 **C. Ongoing Investigation of Special Receiver**

21 On November 28, 2005, the Court appointed a Special Receiver, Jenny A. Durkan, for
22 the sole purpose of investigating a \$250,000.00 transfer from the Zidar defendants to an entity in
23 New York, New York controlled by C.W. Sullivan. The Special Receiver continues to
24 investigate this matter and has been ordered to update the court on the status of its investigation
25 by May 22, 2007. At that time, the Receiver anticipates the Special Receiver will report whether
26 it is possible to recover any assets for the benefit of the receivership.
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1 **D. Request to Cancel Payments to Certain Investors**

2 The Receiver’s Third Supplemental Report to the court explained that four (4) of the
3 1,676 defrauded investors had not cashed their April 14, 2005 pro rata distribution check.²² The
4 Third Supplemental Report briefed the Court on the efforts the Receiver had made to assist these
5 four individuals (Susie Dodge, Richard Green, Orest Basil Iwaschuk and Benjamin Sher) and
6 encourage them to accept the payment. The Receiver explained that it would ask the Court for
7 authority to cancel the payments and make the funds available to the other investor victims if
8 these matters were not resolved by the date of this report. No progress has been made to date.
9

10 The Receiver respectfully submits that it is most appropriate to address these matters in
11 the context of the final, supplemental distribution. Accordingly, the Receiver will ask the Court
12 to resolve these issues when the Receiver submits its final distribution plan to the Court.
13

14 **III. CONCLUSION**

15 Due to the ongoing investigations, including work by the Special Receiver, the Receiver
16 respectfully suggests that it would be premature to propose a supplemental distribution plan to
17 the Court at this time. The Receiver recommends conducting a supplemental distribution only
18 after all viable assets have been recovered and any potential appeals have been resolved.
19

20 As noted, the Receiver is attempting to sell real property in San Jose, Costa Rica. It
21 expects to complete its investigations and recover outstanding assets within the next several
22 months. The Receiver is sensitive not to deplete Receivership Assets by chasing unrealistic
23 leads and instigating costly litigation. In that light, the Receiver is confident that he has
24 identified all of the viable assets in Section II.A. The Receiver estimates that the assets
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²²The Receiver invites the Court to review the Receiver’s August 22, 2006 Third Supplemental Report Regarding
Asset Recovery Efforts and Case Status for more details on this matter.

1 identified in Section II.A may increase the Receivership Assets by as much as \$400,000.00. It is
2 likely, but not certain, that this work will be complete within the next six months and that the
3 Receiver will be able to submit a supplemental distribution to the Court at that time.

4 Accordingly, the Receiver moves the court to order the Receiver to issue another report
5 within six months. The Receiver further petitions the Court to order the Receiver to submit a
6 supplemental distribution plan once all assets have been recovered by the Receiver and Special
7 Receiver. If approved in a final order, the distribution plan will only be implemented if no
8 interested party appeals the Court's ruling that approves such a plan.
9

10 DATED this 24th day of April, 2007.

11 **McKAY CHADWELL, PLLC**

12 *s/ Michael D. McKay*

13

Michael D. McKay, WSBA #7040

14 Receiver

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