

THE HONORABLE JOHN C. COUGHENOUR

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 SIXTH
SUPPLEMENTAL REPORT
REGARDING ASSET RECOVERY
EFFORTS AND CASE STATUS**

**NOTE FOR MOTION: June 27,
2008**

The court-appointed Receiver submits this report in compliance with the Court's December 11, 2007 Order Directing the Receiver to Continue Asset Recovery Efforts and Submit Supplemental Report ("Order"). The Order required 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.

The receivership has recovered an additional \$172,690.05 since the Receiver's last report, but the total amount of funds available for a supplemental and final distribution will not be known until all assets have been liquidated and the proceeds transferred to the receivership. The Receiver has identified and investigated the Zidar Defendants' last remaining claims, and only

1 three matters remain unliquidated.

2 The Receiver estimates that the assets described below might increase the receivership
3 Assets by as much as \$200,000.00. The Receiver respectfully suggests that it would be
4 premature to recommend a final pro rata distribution plan because not all assets have been
5 liquidated.

6 The following discussion reviews the work that has been accomplished since the
7 November 20, 2007 Fifth Supplemental Report Regarding Asset Recovery Efforts and Case
8 Status, and it details the status of pending matters. The Receiver asks the Court to direct the
9 Receiver to continue its work and update the Court on the timeframe for a final distribution plan
10 within six (6) months of the Court's review of this report.

11 I. Current Balance of Receivership Assets

12 The following table summarizes the Receiver's investment account activity since the
13 Fifth Supplemental Report. The funds, listed below, have not been distributed to the defrauded
14 investors.

<i>Date of Activity</i>	<i>Type of Activity</i>	<i>Investment Account Balance</i>
11/17/2007	(\$3,292.98) Payment to Special Receiver ¹	\$741,297.47
11/29/2007	(\$200.00) Payment to Henry Lang ²	\$741,097.47
11/30/2007	\$1,832.54 Interest Income	\$742,930.01
12/31/2007	\$1,807.12 Interest Income	\$744,737.13
01/14/2008	(\$68,383.50) Receiver Fees ³	\$676,353.63
01/28/2008	\$144,815.05 Proceeds from Sale of Real Property in Costa Rica	\$821,168.68
01/31/2008	\$1,534.39 Interest Income	\$822,703.07

25 ¹Pursuant to October 19, 2007 Order Directing Special Receiver to Continue Work related to Sullivan Transaction,
26 and Approving Fees and Costs.

27 ²Payment to Henry Lang, local counsel in Costa Rica, who assisted in the sale of commercial property.

28 ³Pursuant to January 10, 2008 Order Granting Receiver's Motion for Fees.

<i>Date of Activity</i>	<i>Type of Activity</i>	<i>Investment Account Balance</i>
02/07/2008	(\$3,172.25) Payment to Henry Lang	\$819,530.82
02/14/2008	(\$281.85) Payment to Costa Rica Property Manager	\$819,248.97
02/29/2008	\$945.88 Interest Income	\$820,194.85
03/31/2008	\$1,364.27 Interest Income	\$821,559.12
04/21/2008	\$20,000.00 Proceeds from Charles Sullivan Settlement with Special Receiver	\$841,559.12
04/30/2008	\$1,103.56 Interest Income	\$842,662.68
05/06/2008	\$7,875.00 Proceeds from Sale of 250 Chinese Bonds	\$850,537.68

II. Ongoing Asset Recovery Investigations and Liquidations

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.

A. Recent Asset Liquidations

1. Sale of Real Property in San Jose, Costa Rica

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

On July 20, 2006, the Court issued an order approving the transfer of assets from the Belize Trust to the receivership. On August 17, 2006, the Belize Trust trustee wired \$225,934.99 to the receivership. On August 16, 2006, the Belize Trust trustee transferred possession of real

1 property to the Zidar Receivership S.R.L., a corporate entity in Costa Rica. The real property
2 was an office condominium located in San Jose, Costa Rica.

3 Through local counsel in Costa Rica, the Receiver negotiated the sale of the office
4 condominium on November 15, 2007 for \$165,000.00. The Receiver received final and full
5 payment on January 28, 2008.

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7 *2. Chinese Bonds*

8 Pursuant to the Court's October 27, 2005 Order, the Receiver arranged to sell Chinese
9 Government 5% Reorganization Gold Loan of 1913 bonds for collector's value. The Receiver
10 hired bond dealer Scott J. Winslow Associates, Inc. to assist with the sales.

11 The Receiver initially shipped 1,424 bonds to Winslow. The United States Postal
12 Inspection Service located additional bonds, and the Receiver delivered another 456 bonds to
13 Winslow on February 15, 2007 for a total of 1,880 bonds.

14 Winslow has sold four different blocks of the Chinese bonds, including 250 on or about
15 April 23, 2008. The total value of all bonds sold to date equals \$49,250.00. Winslow continues
16 to market the remaining 234 bonds.

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19 *3. Sullivan Settlement*

20 On April 14, 2008, this Court approved the Special Receiver's \$20,000.00 settlement
21 agreement with Charles W. Sullivan. The settlement agreement relates to \$250,000.00 that the
22 Zidar Defendants transferred to a corporation owned by Sullivan. The Receiver received the
23 \$20,000.00 payment on April 21, 2008.

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25 **B. Assets the Receiver Expects to Recover and Incorporate in the Final Distribution**

26 Since its last report, the Receiver has focused primarily on the following matters that are
27 expected to result in a monetary recovery.

1 1. *Cause of Action against Michelle von Wald*

2 The Receiver filed a summons and complaint for fraud, breach of contract, and
3 conversion against Michelle von Wald in the Western District of Washington on November 8,
4 2007. The parties are in the midst of pre-trial discovery and pre-trial motion practice.

5 On October 19, 1999, Phillips wired \$255,000.00 to an account controlled by Mark
6 Cohen at a Citibank branch in Florida. von Wald assisted the Zidar Defendants by facilitating
7 the transfer of funds to Cohen. Cohen subsequently transferred \$154,500.00 of the original
8 investment to von Wald in Miami. The remaining funds have been wasted.

9 The Receiver located von Wald in Miami on June 6, 2006. von Wald originally claimed
10 that she never received Zidar funds from Cohen. Later, during an April 20, 2007 deposition, von
11 Wald agreed to pay the receivership \$154,500.00. On or about May 1, 2007, von Wald informed
12 the Receiver, through her attorney, that she subsequently decided not to return the funds. As a
13 result, the Receiver filed the complaint and served von Wald on November 14, 2007. A trial date
14 has not been set, but the Receiver anticipates resolving this matter by the end of 2008.

15 2. *James Haslem*

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

19 The Receiver sued Haslem in Utah state court and obtained a \$211,081.12 default
20 judgment on January 2, 2007. The Receiver's local counsel interviewed Haslem on or about
21 February 6, 2007 regarding his ability to satisfy the judgment. Haslem appears to lack any
22 substantial assets.

23 The Receiver and Haslem have been attempting to settle the default judgment. On
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1 August 6, 2007, the Receiver's local counsel in Utah informed Haslem that the Receiver would
2 settle this matter for \$25,000.00, if Haslem made payment by August 10, 2007. Haslem was
3 unable to satisfy that demand. He informed local counsel, however, that his brother expects to
4 obtain financing regarding a business plan, and that he would be able to partially repay his debt
5 once he and his brother obtain that financing. As of the date of this report, Haslem and his
6 brother have yet to obtain the business loan.
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8 A supplemental debtor's conference was scheduled for April 28, 2008. Haslem did not
9 appear at the conference, and the local court authorized an arrest warrant on that date. The court
10 also imposed a \$1,500.00 bail. Haslem has not been arrested, but another debtor's examination
11 and show cause hearing have been set for June 23, 2008. The Receiver expects Haslem to be
12 arrested by that hearing date. The Receiver is exploring other options to liquidate its default
13 judgment short of brokering a settlement agreement with Haslem.
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15 III. CONCLUSION

16 The Receiver recommends conducting a supplemental distribution only after all viable
17 assets have been recovered and any potential appeals have been resolved. As noted, the Receiver
18 is litigating its claim against Michelle von Wald. Beyond that, the Receiver only needs to sell
19 the few remaining Chinese bonds and execute its judgment against Haslem. This case is close to
20 the end.
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22 The Receiver is sensitive not to deplete Receivership Assets by chasing unrealistic leads
23 or instigating frivolous litigation. In that light, the Receiver has focused his energy on viable
24 claims. The Receiver estimates that the outstanding assets might increase the Receivership
25 Assets by as much as \$200,000.00. It is likely, but not certain, that work will be completed
26 within six months and that the Receiver will be able to submit a supplemental distribution plan to
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1 the Court at that time.

2 The Receiver moves the court to order the Receiver to issue another report within six
3 months. The Receiver further petitions the Court to order the Receiver to submit a supplemental
4 distribution plan once all assets have been recovered by the Receiver and Special Receiver. The
5 Receiver estimates that it will cost approximately \$10,000.00 to facilitate the next monetary
6 distribution to approximately 3,500 victims. Given the costs associated with the distribution, the
7 Receiver believes it is most cost-effective to incur this cost only one more time, at the conclusion
8 of this case. If approved in a final order, the distribution plan will only be implemented if no
9 interested party appeals the Court's ruling that approves such a plan.
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12 DATED this 11th day of June, 2008.

13 **McKAY CHADWELL, PLLC**

14 s/ Michael D. McKay

15 Michael D. McKay, WSBA #7040

16 Receiver

17 McKay Chadwell, PLLC

18 600 University Street, Suite 1601

19 Seattle, WA 98101

20 Phone: (206) 233-2800

21 Facsimile: (206) 233-2809

22 E-mail: mdm@mckay-chadwell.com
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26
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