

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 SEVENTH  
SUPPLEMENTAL REPORT  
REGARDING ASSET RECOVERY  
EFFORTS AND CASE STATUS  
AND MOTION FOR ANOTHER  
STATUS REPORT**

**NOTE FOR MOTION: January 23,  
2009**

The court-appointed Receiver submits this report in compliance with the Court's July 2, 2008 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.<sup>1</sup>

The receivership has recovered an additional \$8,871.00 since the Receiver's last report, but the total amount of funds available for a supplemental and final distribution will not be

<sup>1</sup>Due to the January 2, 2009 court holiday, the Receiver filed this report a court day after ordered to do so in the July 2, 2008 order.

1 known until James Haslem satisfies a court-ordered judgment in the amount of \$211,081.12. All  
 2 other assets have been liquidated and the proceeds transferred to the receivership. The following  
 3 discussion reviews the work that has been accomplished since the June 19, 2008 Sixth  
 4 Supplemental Report Regarding Asset Recovery Efforts and Case Status, including details on the  
 5 Haslem matter.

6  
 7 The Receiver respectfully asks for an order directing the Receiver to report on his work  
 8 and the possibility of a final distribution plan within three (3) months of the Court's review of  
 9 this report, or when the Haslem judgment has been satisfied, whichever happens first. The  
 10 Receiver will present and recommend a final pro rata distribution plan once the Haslem  
 11 judgment has been liquidated or deemed worthless.<sup>2</sup>

### 12 I. Current Balance of Receivership Assets

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

<i>Date of Activity</i>	<i>Type of Activity</i>	<i>Investment Account Balance</i>
05/31/2008	\$1,103.56 Interest Income	\$850,142.48
05/31/2008	(\$188.33) Receiver Costs	\$849,954.15
06/19/2008	(\$189.43) Bank Service Charge	\$849,764.72
06/30/2008	\$1,167.67 Interest Income	\$850,932.39
07/14/2008	(\$74,113.50) Receiver Fees	\$776,818.89
07/19/2008	(\$189.55) Bank Service Charge	\$776,629.34
07/31/2008	\$866.49 Interest Income	\$777,495.83
08/07/2008	(\$3,158.80) Receiver Costs	\$774,337.03
08/19/2008	(\$180.37) Bank Service Charge	\$774,156.66

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 28 <sup>2</sup>The Receiver aims to preserve the Receivership Assets and does not intend to chase judgment proof debtors or instigate litigation wherein the costs exceed the benefit.

<i>Date of Activity</i>	<i>Type of Activity</i>	<i>Investment Account Balance</i>
08/25/2008	\$1,500.00 James Haslem Bail Payment	\$775,656.66
08/31/2008	\$851.09 Interest Income	\$776,507.75
09/01/2008	(\$180.25) Bank Service Charge	\$776,327.50
09/10/2008	(\$1,025.61) Receiver Costs	\$775,301.89
09/30/2008	\$851.90 Interest Income	\$776,153.79
10/01/2008	\$1,927.53 Interest Income	\$778,081.32
10/01/2008	(\$180.21) Bank Service Charge	\$777,901.11
10/15/2008	(\$1,875.00) Receiver Costs	\$776,026.11
11/01/2008	\$1,732.84 Interest Income	\$777,758.95
11/01/2008	(\$180.19) Bank Service Charge	\$777,578.76
11/10/2008	(\$34.57) Receiver Costs	\$777,544.19
11/25/2008	\$7,371.00 Sale of Chinese Bonds	\$784,915.19
12/11/2008	(\$814.25) Receiver Costs	\$784,100.94
12/30/2008	\$404.41 Interest Income	\$784,505.35
12/30/2008	(\$181.30) Bank Service Charge	\$784,324.05

## 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 is mindful not to deplete the Receivership Assets as he winds up this matter.

### A. Recent Asset Liquidations

#### 1. Chinese Bonds

Pursuant to the Court's October 27, 2005 Order, the Receiver 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 manage the sale of 1,880 bonds.

Winslow sold five different blocks of bonds, including the final 234 bonds on or about November 17, 2008. The last remaining 234 bonds were sold for \$35.00 each, yielding \$8,190.00 less a ten (10) percent commission. In the end, the Receiver liquidated all 1,880

1 bonds netting \$56,420.00.

2 **B. The Last Remaining Potential Assets to Incorporate into the Receivership Assets**  
3 **and Final Monetary Distribution**

4 Since his last report, the Receiver has focused primarily on its claims against James  
5 Haslem and Michelle von Wald.

6 1. *James Haslem*

7 Zidar loaned James Lynn Haslem \$125,000.00 to explore a deal with Saudi Arabian  
8 investors. Haslem acknowledged the loan during the Zidar criminal trial and claimed the loan  
9 was secured by a lien on his home, which he no longer owns.  
10

11 The Receiver sued Haslem in Utah state court and obtained a \$211,081.12 default  
12 judgment on January 2, 2007. The Receiver's local Utah counsel interviewed Haslem on or  
13 about February 6, 2007 regarding his ability to pay and the two attempted to settle the default  
14 judgment. On August 6, 2007, the Receiver offered to settle for \$25,000.00, if Haslem made  
15 payment by August 10, 2007. Haslem was unable to satisfy that demand.  
16

17 Haslem claimed that his brother expected to obtain financing regarding a business plan,  
18 and that Haslem could partially repay his debt once his brother obtains that financing. As of the  
19 date of this report, Haslem and his brother have yet to secure financing.  
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21 A supplemental debtor's conference was scheduled for April 28, 2008. Haslem did not  
22 appear at the conference, and the local court authorized an arrest warrant. The court also  
23 imposed a \$1,500.00 bail.

24 On August 5, 2008, during another supplemental hearing, the court ordered the \$1,500.00  
25 bail be forfeited to the Receiver. Haslem was placed under oath by the Receiver's local counsel.  
26 He testified that a written accounting of his assets was true and accurate; yet he did not produce  
27 any documents responsive to an April 4, 2008 court order. As a result, another review hearing  
28

1 was set for August 19, 2008, and the court ruled that Haslem would be found in contempt of  
2 court if no documents were produced by that date. Haslem later produced financial records,  
3 including personal property, income tax, and corporate documents. He has also provided  
4 information about a residential foreclosure.

5 After several delays, another status hearing took place on November 18, 2008. The  
6 Receiver's local counsel was able to establish that Haslem is the sole owner of Tote  
7 International, a Utah corporation. Tote has active bank accounts (albeit minimal activity) and  
8 upon the Receiver's request, the court froze the accounts and allowed garnishment. An  
9 Application of Garnishment and Writ of Garnishment were served on Haslem's bank on  
10 November 21, 2008. The Receiver also served the bank with a records subpoena to  
11 confirm/analyze recent account activities. The Receiver anticipates making a final determination  
12 on the viability of the judgment once it has an opportunity to review the bank records. It does  
13 not expect this review process to extend far into 2009.

14 In the meantime, the Receiver has explored other options to liquidate the January 2, 2007  
15 default judgment by contacting three separate business entities that purchase court-ordered  
16 judgments. As of the date of this filing, the Receiver has yet to find a party interested in buying  
17 the judgment.

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21 *2. Cause of Action against Michelle von Wald*

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

26  
27 The Receiver located von Wald in Miami on June 6, 2006. von Wald originally claimed  
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1 that she never received Zidar funds from Cohen. Later, during an April 20, 2007 deposition, and  
2 after being confronted with bank records showing that she received the money, von Wald agreed  
3 to pay the receivership \$154,500.00. On or about May 1, 2007, von Wald informed the  
4 Receiver, through her attorney, that she subsequently decided not to return the funds. As a  
5 result, the Receiver filed the complaint and served von Wald on November 14, 2007.  
6

7 After conducting discovery, the Receiver has confirmed and concluded that von Wald has  
8 no assets exceeding \$10,000.00 and has no prospects of making significant income at this time.  
9 von Wald has testified accordingly under oath. Based on this information, on December 8, 2008,  
10 the Receiver stipulated to dismiss his case against von Wald without prejudice. The order of  
11 dismissal was filed on December 9, 2008.  
12

### 13 **III. CONCLUSION**

14 The Receiver recommends conducting a supplemental distribution only after all viable  
15 assets have been recovered and any potential appeals have been resolved. As noted, the Receiver  
16 is finalizing its review of Haslem's corporate accounts to determine whether Haslem is able to  
17 satisfy the \$211,081.12 judgment. The entire investigation is almost complete.  
18

19 The Receiver expects to complete his work within three months and hopes to submit a  
20 supplemental distribution plan to the Court soon thereafter.

21 The Receiver moves the court to order the Receiver to issue another status report within  
22 three months. The Receiver further petitions the Court to order the Receiver to submit a  
23 supplemental distribution plan once all assets have been recovered by the Receiver. The  
24 Receiver estimates that it will cost approximately \$10,000.00 to facilitate the next monetary  
25 distribution to approximately 3,500 victims. Given the costs associated with the distribution, the  
26 Receiver believes it is most cost-effective to incur this cost only one more time, at the conclusion  
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28

1 of this case. If approved in a final order, the distribution plan will only be implemented if no  
2 interested party appeals the Court's ruling that approves such a plan.

3  
4 DATED January 5, 2009.

5 **McKAY CHADWELL, PLLC**

6 *s/ Michael D. McKay*

7 Michael D. McKay, WSBA #7040

8 Receiver

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