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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 FIRST REPORT TO
COURT ON RECEIVERSHIP
ASSETS AND MOTION FOR FEES

NOTE ON MOTION CALENDAR:
Friday, January 4, 2002

I. FIRST REPORT TO COURT ON RECEIVERSHIP ASSETS

A. BACKGROUND

In a March 27, 2001 order ("Order") entered in this case, I was appointed Receiver and ordered to take custody, control and possession of property known as the "Receivership Assets."

The Receivership Assets were defined in the Order as:

[a]ll money and other assets contributed to Oakleaf International and Rosewood International investment programs; all money and assets contributed to Meliorations Management Teem, World Cultural Center (Samoa) Inc., SBC Inc., Millennium SA, Third Millennium SA, Privateassets.com SA, Isaacson Global Holding SA, and PIBC in relation to the Oakleaf International or Rosewood International investment program; all money and assets contributed

1 to programs of similar design or purpose operated by defendants
2 John W. Zidar, John W. Matthews, or Elizabeth A. Phillips, or
3 relief defendants William H. Cravens or Steven C. Moreland; and
4 all proceeds, rents, interest, capital gains, and other income
5 attributable to the use of such money and assets.

6 Order at Section I.

7 As Receiver, I am authorized:

8 to marshal, conserve, hold, and manage the Receivership Assets
9 with full power to take such steps as [I] [deem] necessary to secure
10 such assets including, but not limited to, obtaining an accounting
11 of the Assets, insuring the Assets, and preventing transfer,
12 withdrawal, concealment, dissipation, or misapplication of Assets.

13 Order at Section I, subparagraph a.

14 Furthermore, the Receiver is authorized “to open one or more bank accounts in King
15 County, Washington, as designated depositories for the Receivership Assets, and to deposit
16 funds into such accounts and make payments from such accounts.” Order at Section I,
17 subparagraph i.

18 **B. RECEIVERSHIP ASSETS**

19 Consistent with the terms of the Order, I have received Receivership Assets and
20 immediately deposited these funds. Since August 2001, the Receivership Assets have grown to
21 \$7,272,586.37. The Assets have been placed in a money market fund at U.S. Bank in Seattle,
22 Washington, and earned interest at an average rate of 2.16%.¹ An accounting of these funds is as
23 follows:

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28 ¹ 2.45% for 8/23/01-8/31/01, 2.36% for 9/01/01-9/30/01, 2.01% for 10/01/01-10/31/01, and 1.81% for 11/01/01-11/30/01.

<u>DATE</u>	<u>TYPE</u>	<u>AMOUNT</u>
08/23/01	Initial Deposit (Proceeds from ANZ Bank, Samoa)	\$6,728,657.63
08/31/01	Interest Payment	\$4,015.07
09/26/01	Deposit (Proceeds from Abdul Alishtari)	\$500,000.00
09/30/01	Interest Payment	\$13,058.14
10/25/01	Deposit (Proceeds from defendant Elizabeth Ann Phillips)	\$3,850.57
10/31/01	Interest Payment	\$12,285.25
11/30/01	Interest Payment	<u>\$10,719.71</u>
	TOTAL	\$7,272,586.37²

C. FUTURE INVESTMENT STRATEGY FOR RECEIVERSHIP ASSETS

We have developed a strategy to increase the return on these funds and to provide greater protection. I met with several Seattle-based U.S. Bank professionals, including a Senior Portfolio Manager, and am now in the process of investing these funds in national municipal bonds, all of which are fully insured against default by various private insurance issuers. A small percentage of the Assets will remain in a money market fund in order to insure sufficient immediate liquidity for the payment of expenses. Because it is our understanding that the majority of the funds will not be needed for distribution until the close of the estimated six to eight week trial presently scheduled for March of 2002 (*United States of America v. John Wayne Zidar, Elizabeth Anne Phillips, John Wesley Matthews, William Hughes Cravens, and Steven Craig Moreland*, Case No. CR01-108R), none of the bonds will mature later than mid-June of 2002.

I am advised that given overall current bond prices, a portfolio of high-quality national municipal bonds with an average yield of 2.0 to 2.1% will translate into a 3.33 to 3.50% tax

² On December 17, 2001, an estimated tax payment of \$11,020.21 will be made to the Internal Revenue Service, decreasing the total assets accordingly.

1 effective yield.³ U.S. Bank charges a fee of ½ of 1%, or 53 basis points. For deposits in the
2 approximate amount of \$25 million,⁴ this fee will be approximately \$66,000. The 3.33 to 3.50%
3 tax effective yield provides a significant increase in the overall value of the Receivership Assets
4 beyond the current average money market interest rate of 2.16%. By pursuing this bond strategy
5 as opposed to leaving the money in a money market fund, the Receivership Assets will gain
6 approximately an additional \$66,000 after the bank fees are paid.⁵ Furthermore, the investment
7 strategy outlined above provides the security, insurance and liquidity necessary when investing
8 funds of this nature.⁶

10 II. DISCLOSURES

11 Robert G. Chadwell, a member of the McKay Chadwell firm, represents Mr. Charles
12 Sullivan. Mr. Sullivan was interviewed in February of 2001 by Assistant United States
13 Attorney Carl Blackstone in connection with the *USA v. Zidar* matter prior to the indictment,
14 which was handed down on March 28, 2001. AUSA Blackstone has indicated to our office
15 that Mr. Sullivan is only a witness and is not a target in the criminal investigation. We have
16 disclosed in writing my role as Receiver to Mr. Sullivan.
17
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19 Hon. John McKay took office as the United States Attorney for the Western District
20 of Washington on October 30, 2001. Mr. McKay is my brother.
21

22 ³ The Receivership Assets are treated as a Qualified Settlement Fund under the Internal Revenue Code and are
23 taxed at 39.1%.

24 ⁴ It is our understanding that at the close of the criminal proceeding, estimated Asset recovery will be between \$22
and \$25 million.

25 ⁵ The current money market rate as of today's date (December 13, 2001) is 1.71%. At 1.71% (money market
26 funds), \$25 million over six months will yield a before tax income of \$213,750 and an after tax income of
27 \$130,173.75. At 3.33% (national municipal bonds), \$25 million over six months will yield a tax-free income of
\$262,500. After subtraction of bank fees of \$66,000, we see an overall investment increase of \$66,326.25. This is
slightly high given that a small percentage of the funds needs to remain in the money market fund to insure
immediate liquidity for Receivership expenses.

28 ⁶ At present, only \$100,000 of the funds located in the money market fund are FDIC insured. With more than \$7.2
million in the account, in the unlikely event of a U.S. Bank failure, only \$100,000 would be insured. The bond
investment strategy we are currently implementing will be fully insured.

1 We do not believe that Mr. Chadwell's representation of Mr. Sullivan nor my
2 relationship with the new U.S. Attorney for the Western District of Washington presents a
3 conflict of interest. However, in an exercise of caution we wish to disclose this to the Court
4 and all parties in this case.

5 III. MOTION FOR FEES

6 The Order states that the Receiver shall take payment from the Receivership Assets and
7 make application to the Court for such payment. The specific language provides:
8

9 [t]he costs, fees and expenses of the Receiver incurred in
10 connection with the performance of his duties described herein,
11 including the costs and expenses of those persons who may be
12 engaged or employed by the Receiver to assist him in carrying out
13 his duties and obligations hereunder, shall be paid out of
14 Receivership assets. All applications for costs, fees and expenses
for services rendered in connection with the Receiver shall be
made by application setting forth in reasonable detail the nature of
the services and shall be heard by the Court.

15 Order at Section II, subparagraph d.

16 As of Friday, December 7, 2001, the Receivership has incurred expenses of \$11,685.52.
17 Declaration of Michael D. McKay at ¶ 2. Of this amount, \$11,260.52 is attributable to legal fees
18 and \$425 is attributable to accounting fees. Declaration of Michael D. McKay at ¶ 3. Pursuant
19 to the Order, we respectfully request this Court to grant the Receivership the authority to receive
20 payment from the Receivership Assets in the amount of \$11,685.52.
21

22 DATED this ___ day of December, 2001.

23
24 **McKAY CHADWELL, PLLC**

25
26 By: _____
27 Michael D. McKay, WSBA No. 7040
28 RECEIVER