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12 KRISTA L. FREITAG

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 SOUTHERN DIVISION

16 Consumer Financial Protection Bureau
and Maria T. Vullo, Superintendent of
17 Financial Services of the State of
New York,

18 Plaintiffs,

19 v.

20 Pension Funding, LLC; Pension
21 Income, LLC; Steven Covey; Edwin
Lichtig; and Rex Hofelter,

22 Defendants.
23

Case No. 8:15-cv-1329

**RECEIVER'S SIXTH INTERIM
REPORT**

Ctrm.: 10A
Judge: Hon. Josephine L. Staton

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1 Krista L. Freitag ("Receiver"), the Court- appointed permanent receiver for
2 Pension Funding, LLC, Pension Income, LLC, and their subsidiaries, affiliates, and
3 successors-in-interest, including PGR, LLC (collectively, "Receivership Entities"),
4 hereby submits this sixth interim report. This report covers the Receiver's activities
5 from April 1, 2017, through June 30, 2017.

6 I. EXECUTIVE SUMMARY

7 This equity receivership arises from the Complaint for Violations of the
8 Consumer Financial Protection Act and New York Banking and Financial Services
9 Laws ("Complaint") (Dkt. No. 1) filed on August 20, 2015 by the Consumer
10 Financial Protection Bureau ("Bureau") and Superintendent of Financial Services of
11 the State of New York ("Superintendent").

12 On or about January 8, 2016, pursuant to the Court's Order Entering Stipulated
13 Preliminary Injunction, Appointment of a Receiver, and Related Matters
14 ("Appointment Order"), the Receiver took control of the Receivership Entities, their
15 books and records, bank accounts, and assets. The Receiver promptly assumed
16 responsibility of all servicing operations and collections pursuant to the Appointment
17 Order. As of June 30, 2017, the Receiver had secured sufficient assets to refund
18 nearly \$700,000 of pensioner lump-sum overpayments and to fund \$2.9 million of
19 investor interim distribution payments.

20 On October 19, 2016, the Receiver filed the Receiver's Forensic Accounting
21 Report and Recommendations (Dkt. No. 116), orders on which were entered on
22 December 14, 2016, and January 4, 2017. Pursuant to the Court's December 14,
23 2016 order, the Receiver and her staff worked to complete and by the end of
24 December 2016, sent all third-party investors a letter detailing their net loss
25 calculation, explaining the claims process, and providing them with 60 days to
26 respond with any comments, questions or concerns thereto. With no disputes to the
27 net loss calculations, at the end of the 60-day period, the Receiver worked with
28 counsel to prepare the proposed allowed claims schedule, distribution plan, motion

1 for approval thereof, and performed the calculations of proposed interim distributions
2 to those with proposed allowed claims.

3 On April 25, 2017, the Receiver filed her Notice of Motion and Motion for,
4 (a) Approval of Proposed Allowed Claim Amounts, (b) Approval of Distribution
5 Plan, and (c) Authority to Make Interim Distributions (“Distribution Motion”) (Dkt.
6 No. 139), which was approved on May 31, 2017 (Dkt. No. 147). Since that time, the
7 Receiver has been working to coordinate payment of the approved distributions
8 therein. While over 75% of the distribution payments were made by June 30, 2017,
9 the remainder have taken more time as the Receiver has given investors who made
10 their investments through retirement accounts the ability to confirm their distribution
11 election.

12 Meanwhile, the Receiver continues her efforts to preserve, protect, identify,
13 collect and maximize the value of receivership assets, including collection of
14 pensioner payments, as further discussed below.

15 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

16 As noted above, on August 20, 2015, the Bureau and Superintendent filed their
17 Complaint against Defendants Pension Funding, LLC, Pension Income, LLC, Steven
18 Covey, Edwin Lichtig, and Rex Hofelter. The Complaint alleges that Defendants
19 violated the Consumer Financial Protection Act of 2010 and New York state law by
20 making "pension advances" to pensioners while (a) failing to disclose the
21 transactions were loans, (b) failing to disclose or misrepresenting the interest rate
22 associated with the loans, (c) making various other misrepresentations about the
23 terms and/or benefits of the loans to pensioners, (d) charging interest rates to
24 pensioners located in New York that exceeded the maximum rate allowed by
25 New York law, and (e) engaging in the business of money transmitting without a
26 money transmitter license.

27 On October 7, 2015, the Bureau and Superintendent moved for a preliminary
28 injunction, appointment of a receiver, and other equitable relief ("Receiver Motion").

1 With the exception of Steven Covey,¹ Defendants answered the Complaint on
2 October 23, 2015. Defendants then opposed the Receiver Motion on October 30,
3 2015. At the hearing on the Receiver Motion held on December 18, 2015, the parties
4 informed the Court that they had agreed upon a stipulation regarding preliminary
5 injunction. Dkt. No. 56. The Joint Stipulation Requesting Entry of Stipulated
6 Preliminary Injunction, Appointment of a Receiver, and Related Orders was filed on
7 December 21, 2015. Dkt. No. 57. On January 8, 2015, the Court entered the
8 Appointment Order. Dkt. No. 61.

9 In accordance with the Appointment Order and the law governing federal
10 equity receiverships, upon her appointment, the Receiver promptly took steps to
11 implement the terms and provisions of the Appointment Order, including (a) taking
12 control of all accounts of the Receivership Entities, (b) imaging and preserving all
13 electronic data of the Receivership Entities, (c) securing and taking possession of all
14 hard copy records and documents of the Receivership Entities, and (d) investigating,
15 issuing subpoenas, and gathering records as to the assets and potential claims of the
16 Receivership Entities.

17 On January 22, 2016, the Court entered the Stipulated Judgment. On March 1,
18 2016, the Receiver filed a Motion for Order in Aid of Receivership (Dkt. No. 71),
19 seeking authority to engage Allen Matkins Leck Gamble Mallory & Natsis LLP
20 ("Allen Matkins") as her general counsel, for relief from Local Rule 66-5 and 66-7
21 and to file interim reports and interim fee applications on a quarterly basis. The
22 Court held a hearing on April 13, 2016, at which time it stated it would grant the
23 Receiver authority to engage Allen Matkins, grant relief from the requirement to
24 serve notices by mail under Local Rule 66-7, extend the deadline under Local
25 Rule 66-5 to file a schedule of known creditors to July 2016, and allow the schedule

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27 ¹ Mr. Covey has not answered the Complaint or otherwise appeared in the action.
28 A default judgment was entered against him on July 11, 2016. Dkt. No. 97.
Accordingly, all references to actions taken by "Defendants" are to Pension
Funding, LLC, Pension Income, LLC, Edwin Lichtig, and Rex Hofelter.

1 of known creditors to be filed under seal (pursuant to an application the Receiver will
2 file in accordance with the Local Rules). The Receiver's application to file the
3 schedule of known creditors under seal was filed concurrently with the Receiver's
4 Second Interim Report (Dkt. No. 100).

5 On March 25, 2016, Defendant Rex Hofelter made the \$40,000 payment
6 required under the Stipulated Judgment. Defendant Edwin Lichtig filed bankruptcy
7 in the Northern District of California, then voluntarily dismissed his bankruptcy and
8 paid the full \$282,000 with interest to the Receiver on April 26, 2016.

9 On October 19, 2016, the Receiver's Forensic Accounting Report and
10 Recommendations was filed (Dkt. No. 116) and heard on December 9, 2016. On
11 December 14, 2016, the Court issued its Order Approving in Part the Receiver's
12 Report and Recommendations (Dkt. No. 125). On December 21, 2016, the Receiver
13 filed her Ex Parte Application for Approval of Recommended ADR Procedure for
14 Investor Claim Disputes (Dkt. No. 126). On January 4, 2017, the Court issued its
15 Order Denying the Receiver's Ex Parte Application and Adopting a Revised Investor
16 Dispute Resolution Process (Dkt. No. 128).

17 On April 25, 2017, the Receiver filed her Notice of Motion and Motion for,
18 (a) Approval of Proposed Allowed Claim Amounts, (b) Approval of Distribution
19 Plan, and (c) Authority to Make Interim Distributions ("Distribution Motion") (Dkt.
20 No. 139), which was approved by the Court on May 31, 2017 (Dkt. No. 147).

21 III. SUMMARY OF RECEIVER'S ACTIVITIES

22 A. Cash Recoveries

23 As discussed in the Receiver's prior interim reports, the balance in the
24 Receivership Entities' accounts as of her appointment on January 8, 2016, was
25 \$526,664. As of June 30, 2016, September 30, 2016, December 31, 2016 and
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1 March 31, 2017, the Receivership Entity cash balance had changed to \$2,086,361,
2 \$2,500,797, \$2,787,495, and \$2,226,586,² respectively.

3 Between April 1, 2017, and June 30, 2017, the Receiver recovered and took
4 possession of a total of \$1,143,196 of additional funds, which primarily resulted from
5 the following:

- 6 • \$220,713 from Pensioner payments (payments net of rejections/
7 insufficient fund payments);
- 8 • \$21,414 in payments on the aforementioned \$1.1 million loan
9 participation interest
- 10 • \$900,000 loan participation interest sale proceeds; and
- 11 • \$1,069 of miscellaneous and interest income.

12 However, amongst other expenses, during the second quarter of 2017, the
13 receivership estate also paid approved investor distributions in the amount of
14 \$2,185,523 which reduced the cash balance to \$1,180,672.

15 **B. Pensioner Communications and Collections**

16 As a result of the Court's orders, the Receiver proceeded to communicate via
17 email and physical mail with Pensioners to ensure they understand their Court-
18 ordered Lump Sum payment responsibility. This communication prompted several
19 defaulted Pensioners to resume payment and/or prompted Pensioners to pay off their
20 remaining Lump Sum owing in full. The Receiver also prepared and, during the first
21 quarter of 2017, issued the return of all overpayment amounts to Pensioners who
22 made payments in excess of their Lump Sums.

23 She has also commenced her collection efforts by gathering information,
24 working to first determine the likely costs and benefits of such efforts, and sending
25 collection letters to pensioners. Initial collection letters were sent to pensioners in
26 April 2017, with Final Notice letters sent in July 2017. At this time, the Receiver has
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28 ² After payment of nearly \$700,000 of pensioner overpayment refunds.

1 proceeded with complaints against four pensioners, two of whom have defaulted.
2 The other two have filed answers to the complaints and the Receiver will soon
3 proceed with discovery and motions for summary judgment.

4 **C. Investor Claims Process**

5 Pursuant to the Court's December 14, 2016 Order, the Receiver completed the
6 Investor claims process. As previously mentioned, the Distribution Motion was filed
7 on April 25, 2017, and approved on May 31, 2017. Accordingly, the Receiver has
8 worked to coordinate payment of the \$2,904,158 of approved interim distributions.
9 As of June 30, 2017, the Receiver prepared and sent payments in the amount of
10 \$2,185,523. The remaining amounts have taken more time as the Receiver has given
11 investors who made their investments through retirement accounts the ability to
12 confirm their distribution election.

13 **D. General Communications**

14 The Receiver established a dedicated web page on her website which provides
15 case information and updates for Pensioners and Investors. With progression of the
16 case, frequently asked questions are added to the website. The Internet address for
17 the webpage is <http://www.ethreadvisors.com/cfpb-case-docs>. In addition, the
18 Receiver is maintaining a dedicated e-mail address and telephone line for Pensioner
19 and Investor inquiries and regularly returns emails and phone calls from Pensioners
20 and Investors.

21 **IV. POST-RECEIVERSHIP RECEIPTS AND DISBURSEMENTS**

22 **A. Consolidated Cash Activity**

23 The following summary reflects the Receivership Entities' consolidated cash
24 balance as of June 30, 2017:
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1	East West Bank - Receiver	\$355,384
2	South County Bank - Receiver	\$812,818
3	South County Bank – PGR Reserve	\$8,313
4	South County Bank – PGR Management	\$0
5	South County Bank – PGR General	\$4,968
6	South County Bank – PGR Future Obligations	Closed
7	South County Bank - Pension Income	\$0
8	South County Bank - Pension Funding	Closed
9	Grand Total	\$1,181,483

10 As of June 30, 2017, outstanding checks totaled \$811, resulting in a June 30,
2017, reconciled cash balance of \$1,180,672.

11 The following is a summary of the consolidated cash activity in the Receiver-
12 controlled Receivership Entities' bank accounts for the period from April 1, 2017,
13 through June 30, 2017:

14	Account Cash Balance at 3/31/17	\$2,226,586
15	Collection – Loan Interest (Apr.-Jun.)	\$21,414
16	Collection – Loan Sale Proceeds	\$900,000
17	Collection – Pensioner Payments (Apr.-June.)	\$221,720
18	Collection – Other Misc. & Interest	\$1,069
19	Pensioner Payments Rejected	(\$1,007)
20	Receiver Fees	(\$0)
21	Receiver Legal Fees	(\$0)
22	Return of Pensioner Lump-Sum Overpayments	(\$0)
23	Investor Interim Distribution	(\$2,185,523)
24	Other Miscellaneous Expenses	(\$3,587)
25	Cash Book Balance at 6/30/17	\$1,180,672

26 The following is a summary of the consolidated cash activity in the Receiver-
27 controlled Receivership Entities' bank accounts for the period from January 7, 2016
28 through June 30, 2017:

Account Cash Balance at 1/7/16³	\$689,737
January 8, 2016 Pensioner Payments	\$99,009 ⁴
January 8, 2016 Investor Payments	(\$262,082) ⁵
Recovery – Bird Marella Law Firm Retainer	\$9,743
Recovery – David Arietta Law Firm Retainer	\$14,084
Recovery – Ramsey Law Firm Retainer	\$7,472
Collection – Loan Principal	\$1,000,000
Collection – Loan Interest (Feb. 16-June 17)	\$124,553
Collection – Rex Hofelter Judgment	\$40,000
Collection – Ed Lichtig Judgment	\$282,108
Collection – Pensioner Payments (Feb. 16-June 17)	\$2,500,265
Collection – Other Misc. & Interest	\$3,585
Pensioner Payments Rejected (Feb. 16-June 17)	(\$47,749)
Receiver Fees	(\$225,960)
Receiver Legal Fees	(\$136,329)
Return of Pensioner Lump-Sum Overpayments	(\$698,528)
Investor Interim Distribution	(\$2,185,523)
Other Miscellaneous Expenses ⁶	(\$33,713)
Cash Book Balance at 6/30/17	\$1,180,672

V. RECOMMENDATIONS

As a general matter, the Receiver continues to marshal, preserve and protect the assets of the Receivership Entities, investigate and pursue recovery of any misappropriated funds, if any, and carry out her other duties under the Court's orders.

A. Receivership Asset Recovery Efforts and Investigation

The Receiver will continue to collect Pensioner Lump Sum payments and seek to locate any presently unaccounted for or misappropriated receivership assets that

⁴ Pensioner payments collected prior to the Receiver's appointment, but posted to the account on January 8, 2016.

⁵ Payments to Investors issued prior to the Receiver's appointment, but posted to the account on January 8, 2016.

⁶ Primarily reflects Pensioner asset search fees, bank fees, income tax return and income-tax related payments.

1 may exist. The Receiver is also in the process of pursuing cost-effective collections
2 where appropriate.

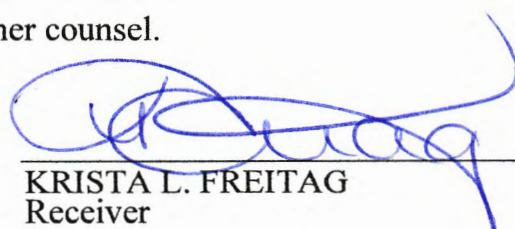
3 **B. Maximize Value of Other Assets**

4 During the first quarter of 2017, the Receiver also consummated her efforts to
5 recover and maximize the value of the Receivership Entities' \$1.1 million loan
6 participation interest ("Loan Participation"). As discussed in the Receiver's motion
7 for approval of the proposed sale transaction (Dkt. No. 140), the Receivership
8 Entities invested a total of \$1.6 million in the Loan Participation. With no control
9 over the master loan or the underlying collateral, with a maturity date that had
10 already passed, and with no ability to assign/sell the participation interest without the
11 lead lender's approval, the Receiver deemed it in the best interest of the receivership
12 estate to pursue a sale to a buyer located by the lender. The Court approved the
13 motion on May 31, 2017 (Dkt. No. 148) and the Receiver thus completed the
14 approved transaction. As a result, including pre-receivership and post-receivership
15 interest and principal payments, the Receivership Entities recovered a total of
16 \$1,738,891 in payments on the original \$1.6 million investment.

17 **C. Quarterly Reports**

18 The Receiver will continue to file, on a quarterly basis, interim reports and
19 interim fee applications for herself and her counsel.

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21 Dated: August 17, 2017


KRISTA L. FREITAG
Receiver

22
23 Dated: August 17, 2017

ALLEN MATKINS LECK GAMBLE
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24
25 By: /s/ Edward Fates

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