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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  
24  
25  
26  
27  
28

Case No. 8:15-cv-1329

**RECEIVER'S EIGHTH INTERIM  
REPORT**

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

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 eighth interim report. This report covers the Receiver's activities  
5 from October 1, 2017, through December 31, 2017, and provides an estimated  
6 timeframe for closeout of the receivership.

## 7 I. EXECUTIVE SUMMARY

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

13 On or about January 8, 2016, pursuant to the Court's Order Entering Stipulated  
14 Preliminary Injunction, Appointment of a Receiver, and Related Matters  
15 ("Appointment Order"), the Receiver took control of the Receivership Entities, their  
16 books and records, bank accounts, and assets. The Receiver promptly assumed  
17 responsibility of all servicing operations and collections pursuant to the Appointment  
18 Order.

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

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 coordinated payment of the approved return of \$700,000 in pensioner  
8 overpayments and \$2.9 million in interim distributions to investors with allowed  
9 claims. While 100% of the distribution payments have been issued, one distribution  
10 check totaling \$36,388.14 remains outstanding; the Receiver has been attempting to  
11 contact the applicable investor to follow up on the negotiation of said payment.

12 The Receiver continues her efforts to preserve, protect, identify, collect and  
13 maximize the value of receivership assets, including collection of pensioner  
14 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,<sup>1</sup> 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  
26

27 <sup>1</sup> 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. The Receiver's application to file the  
 2 schedule of known creditors under seal was filed concurrently with the Receiver's  
 3 Second Interim Report (Dkt. No. 100).

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

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

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

### 20 **III. SUMMARY OF RECEIVER'S ACTIVITIES**

#### 21 **A. Cash Recoveries**

22 As discussed in the Receiver's prior interim reports, the balance in the  
 23 Receivership Entities' accounts as of her appointment on January 8, 2016, was  
 24 \$526,664. The balance increased steadily to \$2,787,495 as of December 31, 2016 (a  
 25 balance that does not reflect the Lynk Capital proceeds received in the second quarter  
 26 of 2017 from the sale of the loan participation interest), and then dropped to  
 27 \$605,334 as of December 31, 2017, due to the return of nearly \$700,000 in pensioner  
 28

1 overpayments and the distribution of a total of \$2,904,158 to investors with allowed  
2 claims.

3 Between October 1, 2017, and December 31, 2017, the Receiver recovered and  
4 took possession of a total of \$120,684 of additional funds, which primarily resulted  
5 from the following:

- 6 • \$120,391 from Pensioner payments (payments net of rejections/  
7 insufficient fund payments); and
- 8 • \$293 of miscellaneous and interest income.

9 **B. Pensioner Communications and Collections**

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

17 She has also commenced her defaulted Pensioner collection efforts by  
18 gathering information, working to first determine the likely costs and benefits of such  
19 efforts, and sending collection letters. Initial collection letters were sent to  
20 pensioners in April 2017, with Final Notice letters sent in July 2017. At this time,  
21 the Receiver has proceeded with complaints against four pensioners, two of whom  
22 have defaulted. The other two have filed answers to the complaints and the Receiver  
23 has propounded discovery requests and will soon proceed with motions for summary  
24 judgment. She also continues to cost-effectively pursue Pensioners who previously  
25 defaulted with small balances owing.

26 **C. Investor Claims Process**

27 Pursuant to the Court's December 14, 2016 Order, the Receiver completed the  
28 Investor claims process. As previously mentioned, the Distribution Motion was filed

on April 25, 2017, and approved on May 31, 2017. Accordingly, the Receiver has worked to coordinate payment of the \$2,904,158 of approved interim distributions. All payments have been issued and as of December 31, 2017, distribution checks totaling \$2,867,770 had cleared, and one investor distribution check in the amount of \$36,388 remained outstanding. Please see Section V(B) below for the additional interim distribution the Receiver will be recommending and noticing hereinafter.

#### **D. General Communications**

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

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

#### **A. Consolidated Cash Activity**

The following summary reflects the Receivership Entities' consolidated cash balance as of December 31, 2017:

East West Bank - Receiver	\$355,563
South County Bank - Receiver	\$278,938
South County Bank – PGR Reserve	\$5,153
South County Bank – PGR Management	Closed
South County Bank – PGR General	\$2,080
South County Bank – PGR Future Obligations	Closed
South County Bank - Pension Income	Closed
South County Bank - Pension Funding	Closed
<b>Grand Total</b>	<b>\$641,734</b>

As of December 31, 2017, outstanding checks totaled \$36,400, resulting in a December 31, 2017, reconciled cash balance of \$605,334.



The following is a summary of the consolidated cash activity in the Receiver-controlled Receivership Entities' bank accounts for the period from October 1, 2017, through December 31, 2017:

<b>Account Cash Balance at 9/30/17</b>	<b>\$487,777</b>
Collection – Pensioner Payments (Oct.-Dec.)	\$120,771
Collection – Tax Refund, Other Misc. & Interest	\$292
Pensioner Payments Rejected (Oct.-Dec.)	(\$380)
Other Miscellaneous Expenses	(\$3,126)
<b>Cash Book Balance at 12/31/17</b>	<b>\$605,334</b>

The following is a summary of the consolidated cash activity in the Receiver-controlled Receivership Entities' bank accounts for the period from January 7, 2016, through December 31, 2017:

<b>Account Cash Balance at 1/7/16<sup>2</sup></b>	<b>\$689,737</b>
January 8, 2016 Pensioner Payments	\$99,009 <sup>3</sup>
January 8, 2016 Investor Payments	(\$262,082) <sup>4</sup>
Recovery – Bird Marella Law Firm Retainer	\$9,743
Recovery – David Arietta Law Firm Retainer	\$14,084
Recovery – Ramsey Law Firm Retainer	\$7,472
Recovery – GCA Law Partners Retainer	\$5,817
Collection – Loan Principal	\$1,000,000
Collection – Loan Interest	\$124,553
Collection – Loan Sale Legal Fee Recovery	\$9,278
Collection – Rex Hofelter Judgment	\$40,000
Collection – Ed Lichtig Judgment	\$282,108
Collection – Pensioner Payments (Feb. 16-Dec. 17)	\$2,780,685
Collection – Tax Refund, Other Misc. & Interest	\$21,797

<sup>2</sup> The beginning balance in the receivership estate bank accounts is presented as of January 7, 2016, because Pensioner and Investor activity occurred/posted the morning of January 8, 2016, prior to the Receiver's appointment (which occurred late in the day on January 8, 2016).

<sup>3</sup> Pensioner payments collected prior to the Receiver's appointment, but posted to the account on January 8, 2016.

<sup>4</sup> Payments to Investors issued prior to the Receiver's appointment, but posted to the account on January 8, 2016.



Pensioner Payments Rejected (Feb. 16-Dec. 17)	(\$51,487)
Receiver Fees	(\$314,756)
Receiver Legal Fees	(\$209,144)
Return of Pensioner Lump-Sum Overpayments	(\$698,528)
Investor Interim Distribution	(\$2,904,158)
Other Miscellaneous Expenses <sup>5</sup>	(\$38,794)
<b>Cash Book Balance at 12/31/17</b>	<b>\$605,334</b>

## 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 Receivership Update

The Receiver will continue to collect Pensioner Lump Sum payments and seek to locate any presently unaccounted for or misappropriated receivership assets that may exist. The Receiver is also in the process of pursuing cost-effective collections where appropriate.

As collections slowly dwindle as Pensioners pay off their Lump Sums, the Receiver is regularly evaluating the costs and benefits of the receivership to ensure that collections exceed ongoing administrative costs. Accordingly, it may be appropriate to scale back certain of the Receiver's activities in the latter half of 2018 in order to keep administrative costs to a minimum such that the receivership continues to provide a benefit to claimants. An example of this may be to reduce the frequency of interim reports and interim fee applications to six-month intervals (instead of quarterly). The Receiver will continue to keep a close eye on this and keep the Court and the interested parties updated.

<sup>5</sup> Primarily reflects Pensioner asset search fees, bank fees, income tax return and income-tax related payments.

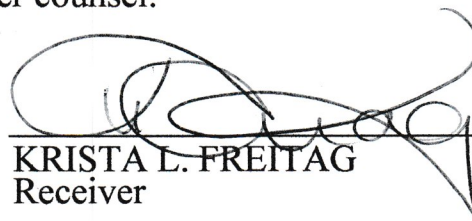
1           **B. Interim Distribution**

2           As provided in the Court-approved Distribution Plan, the Receiver will make  
3 additional interim distributions, pursuant to the terms of the Distribution Plan, when  
4 at least \$400,000 can be distributed without putting the receivership estate at risk.  
5 Under the Distribution Plan, the Receiver must provide notice of the total distribution  
6 amount to the Bureau and Superintendent and confirm they do not object. With  
7 \$605,334 in cash on hand as of December 31, 2017, and over \$40,000 of collections  
8 in January 2018 to date, the Receiver believes approximately \$440,000, which would  
9 reduce the maximum net loss of claimants to approximately 44.5% (from 47.0%),  
10 can be safely distributed and therefore plans to notify the Bureau and the  
11 Superintendent of her intent to distribute that amount within two weeks of the date of  
12 this filing. Provided they have no objection, the Receiver will then communicate  
13 with the effected claimants and proceed to issue an interim distribution pursuant to  
14 the Court-approved Distribution Plan and approved rising tide methodology.

15           **C. Quarterly Reports**

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

18  
19 Dated: January 24, 2018

  
KRISTA L. FREITAG  
Receiver

21 Dated: January 24, 2018

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

23 By: /s/ Edward Fates

24 EDWARD G. FATES  
25 Attorneys for Receiver  
26 KRISTA L. FREITAG  
27  
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