

1 ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
2 DAVID R. ZARO (BAR NO. 124334)  
TIM C. HSU (BAR NO. 279208)  
3 865 South Figueroa Street, Suite 2800  
Los Angeles, California 90017-2543  
4 Phone: (213) 622-5555  
Fax: (213) 620-8816  
5 E-Mail: dzaro@allenmatkins.com  
thsu@allenmatkins.com

6 ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
7 EDWARD G. FATES (BAR NO. 227809)  
8 One America Plaza  
600 West Broadway, 27th Floor  
9 San Diego, California 92101-0903  
Phone: (619) 233-1155  
10 Fax: (619) 233-1158  
E-Mail: tfates@allenmatkins.com

11 Attorneys for Receiver  
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 NINTH 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 ninth interim report. This report covers the Receiver's activities  
5 from January 1, 2018, through March 31, 2018.

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  
13 Stipulated 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  
17 Appointment Order.

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

1 On April 25, 2017, the Receiver filed her Notice of Motion and Motion for,  
2 (a) Approval of Proposed Allowed Claim Amounts, (b) Approval of Distribution  
3 Plan, and (c) Authority to Make Interim Distributions ("Distribution Motion") (Dkt.  
4 No. 139), which was approved on May 31, 2017 (Dkt. No. 147). Since that time,  
5 the Receiver coordinated payment of the approved return of \$700,000 in pensioner  
6 overpayments and \$3.3 million in interim distributions to investors with allowed  
7 claims. All of the first and second interim distribution payments have been issued  
8 as of the date of this report - \$423,774 of the second interim distribution payments  
9 were issued as of March 31, 2018, and the remaining \$16,159 in payments were  
10 issued in April 2018. Also, one interim distribution check totaling \$36,388.14 from  
11 the first round of interim distributions remained outstanding as of March 31, 2018.  
12 The Receiver has finally made contact with the applicable investor to follow up on  
13 the negotiation of said payment; such payment has recently been voided and  
14 reissued.

15 The Receiver continues her efforts to preserve, protect, identify, collect and  
16 maximize the value of receivership assets, including collection of pensioner  
17 payments, as further discussed below.

## 18 II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

19 As noted above, on August 20, 2015, the Bureau and Superintendent filed  
20 their Complaint against Defendants Pension Funding, LLC, Pension Income, LLC,  
21 Steven Covey, Edwin Lichtig, and Rex Hofelter. The Complaint alleges that  
22 Defendants violated the Consumer Financial Protection Act of 2010 and New York  
23 state law by making "pension advances" to pensioners while (a) failing to disclose  
24 the transactions were loans, (b) failing to disclose or misrepresenting the interest  
25 rate associated with the loans, (c) making various other misrepresentations about the  
26 terms and/or benefits of the loans to pensioners, (d) charging interest rates to  
27 pensioners located in New York that exceeded the maximum rate allowed by  
28

1 New York law, and (e) engaging in the business of money transmitting without a  
2 money transmitter license.

3 On October 7, 2015, the Bureau and Superintendent moved for a preliminary  
4 injunction, appointment of a receiver, and other equitable relief ("Receiver  
5 Motion"). With the exception of Steven Covey,<sup>1</sup> Defendants answered the  
6 Complaint on October 23, 2015. Defendants then opposed the Receiver Motion on  
7 October 30, 2015. At the hearing on the Receiver Motion held on December 18,  
8 2015, the parties informed the Court that they had agreed upon a stipulation  
9 regarding preliminary injunction. Dkt. No. 56. The Joint Stipulation Requesting  
10 Entry of Stipulated Preliminary Injunction, Appointment of a Receiver, and Related  
11 Orders was filed on December 21, 2015. Dkt. No. 57. On January 8, 2015, the  
12 Court entered the Appointment Order. Dkt. No. 61.

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

21 On January 22, 2016, the Court entered the Stipulated Judgment. On  
22 March 1, 2016, the Receiver filed a Motion for Order in Aid of Receivership (Dkt.  
23 No. 71), seeking authority to engage Allen Matkins Leck Gamble Mallory &  
24 Natsis LLP ("Allen Matkins") as her general counsel, for relief from Local  
25 Rule 66-5 and 66-7 and to file interim reports and interim fee applications on a  
26

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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 quarterly basis. The Court held a hearing on April 13, 2016, at which time it stated  
2 it would grant the Receiver authority to engage Allen Matkins, grant relief from the  
3 requirement to serve notices by mail under Local Rule 66-7, extend the deadline  
4 under Local Rule 66-5 to file a schedule of known creditors to July 2016, and allow  
5 the schedule of known creditors to be filed under seal. The Receiver's application to  
6 file the schedule of known creditors under seal was filed concurrently with the  
7 Receiver's Second Interim Report (Dkt. No. 100).

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

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

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

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

#### 25 **A. Cash Recoveries**

26 As discussed in the Receiver's prior interim reports, the balance in the  
27 Receivership Entities' accounts as of her appointment on January 8, 2016, was  
28 \$526,664. The balance increased steadily to \$2,787,495 as of December 31, 2016 (a

1 balance that does not reflect the Lynk Capital proceeds received in the second  
2 quarter of 2017 from the sale of the loan participation interest), and then dropped to  
3 \$203,207 as of March 31, 2018, due to the return of nearly \$700,000 in pensioner  
4 overpayments and the distribution of a total of \$3,327,932 to investors with allowed  
5 claims. The remaining second interim distribution payments in the amount of  
6 \$16,159 were issued in April 2018.

7       Between January 1, 2018, and March 31, 2018, the Receiver recovered and  
8 took possession of a total of \$93,515 of additional funds, which primarily resulted  
9 from the following:

- 10           • \$93,222 from Pensioner payments (payments net of rejections/  
11           insufficient fund payments); and
- 12           • \$293 of miscellaneous and interest income.

13       **B. Pensioner Communications and Collections**

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

21       She has also commenced her defaulted Pensioner collection efforts by  
22 gathering information, working to first determine the likely costs and benefits of  
23 such efforts, and sending collection letters. Initial collection letters were sent to  
24 pensioners in April 2017, with Final Notice letters sent in July 2017. At this time,  
25 the Receiver has proceeded with complaints against four pensioners, two of whom  
26 have defaulted. The other two have filed answers to the complaints – the Receiver  
27 was able to settle one case and recently filed a motion for summary judgment as to  
28 the other case. With respect to the latter case, the Receiver has made several

1 attempts to settle the case and a mediation is scheduled for June 4, 2018. The  
2 Receiver also continues to cost-effectively pursue Pensioners who previously  
3 defaulted with small balances owing.

4 **C. Investor Claims Process and Interim Distributions**

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  
8 worked to coordinate the first interim distribution payments in the total amount of  
9 \$2,904,158.

10 As noted in the Receiver's Eighth Interim Report, pursuant to the Distribution  
11 Plan approved by the Court on May 21, 2017, the Receiver noticed and received no  
12 objections to proceed with a second interim distribution in February 2018. Thus, the  
13 Receiver has worked to issue the second interim distributions in the total amount of  
14 \$439,933 to investors, increasing the minimum net recovery of investors with  
15 approved claims to approximately 55.5% (pursuant to the Court-approved rising tide  
16 distribution methodology). To date, all second interim distributions have been  
17 issued, bringing the total distribution amount to \$3,344,091.

18 **D. General Communications**

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

26  
27  
28



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

2 **A. Consolidated Cash Activity**

3 The following summary reflects the Receivership Entities' consolidated cash  
4 balance as of March 31, 2018:

5 East West Bank - Receiver	\$170,631
6 South County Bank - Receiver	\$89,349
7 South County Bank – PGR Reserve	\$5,676
8 South County Bank – PGR Management	Closed
9 South County Bank – PGR General	\$1,982
10 South County Bank – PGR Future Obligations	Closed
11 South County Bank - Pension Income	Closed
12 South County Bank - Pension Funding	Closed
<b>Grand Total</b>	<b>\$267,639</b>

13 As of March 31, 2018, outstanding checks totaled \$64,432, resulting in a  
14 March 31, 2018, reconciled cash balance of \$203,207.

15 The following is a summary of the consolidated cash activity in the Receiver-  
16 controlled Receivership Entities' bank accounts for the period from January 1, 2018,  
17 through March 31, 2018:

18 <b>Account Cash Balance at 12/31/17</b>	<b>\$605,334</b>
19 Collection – Pensioner Payments (Jan.-Mar.)	\$93,222
20 Collection – Tax Refund, Other Misc. & Interest	\$293
21 Receiver Fees	(\$34,276)
22 Receiver Legal Fees	(\$29,474)
23 Investor Second Interim Distribution	(\$423,774)
24 Other Miscellaneous Expenses	(\$8,118)
<b>Cash Book Balance at 3/31/18</b>	<b>\$203,207</b>

25 The following is a summary of the consolidated cash activity in the Receiver-  
26 controlled Receivership Entities' bank accounts for the period from January 7, 2016  
27 through March 31, 2018:

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1	<b>Account Cash Balance at 1/7/16<sup>2</sup></b>	<b>\$689,737</b>
2	January 8, 2016 Pensioner Payments	\$99,009 <sup>3</sup>
3	January 8, 2016 Investor Payments	(\$262,082) <sup>4</sup>
4	Recovery – Bird Marella Law Firm Retainer	\$9,743
5	Recovery – David Arietta Law Firm Retainer	\$14,084
6	Recovery – Ramsey Law Firm Retainer	\$7,472
7	Recovery – GCA Law Partners Retainer	\$5,817
8	Collection – Loan Principal	\$1,000,000
9	Collection – Loan Interest	\$124,553
10	Collection – Loan Sale Legal Fee Recovery	\$9,278
11	Collection – Rex Hofelter Judgment	\$40,000
12	Collection – Ed Lichtig Judgment	\$282,108
13	Collection – Pensioner Payments (Feb. 16-Mar. 18)	\$2,873,907
14	Collection – Tax Refund, Other Misc. & Interest	\$22,090
15	Pensioner Payments Rejected (Feb. 16-Mar. 18)	(\$51,487)
16	Receiver Fees	(\$349,032)
17	Receiver Legal Fees	(\$238,617)
18	Return of Pensioner Lump-Sum Overpayments	(\$698,528)
19	Investor First Interim Distribution	(\$2,904,158)
20	Investor Second Interim Distribution	(\$423,774)
21	Other Miscellaneous Expenses <sup>5</sup>	(\$46,913)
22	<b>Cash Book Balance at 3/31/18</b>	<b>\$203,207</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

<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.

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

1 misappropriated funds, if any, and carry out her other duties under the Court's  
2 orders.

3 **A. Receivership Asset Recovery Efforts**

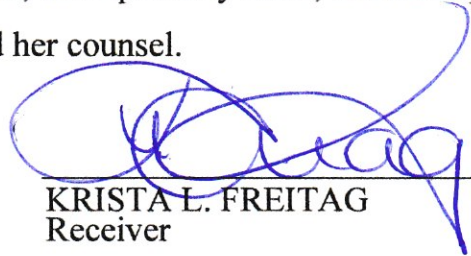
4 The Receiver will continue to collect Pensioner Lump Sum payments and  
5 seek to locate any presently unaccounted for or misappropriated receivership assets  
6 that may exist. The Receiver is also in the process of pursuing cost-effective  
7 collections where appropriate.

8 As collections slowly dwindle as Pensioners pay off their Lump Sums, the  
9 Receiver is regularly evaluating the costs and benefits of the receivership to ensure  
10 that collections exceed ongoing administrative costs. The Receiver will continue to  
11 keep a close eye on this and keep the Court and the interested parties updated.

12 **B. Quarterly Reports**

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

15  
16 Dated: May 9, 2018

  
KRISTA L. FREITAG  
Receiver

17  
18 Dated: May 9, 2018

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

19  
20 By: */s/ Edward Fates*

EDWARD G. FATES  
Attorneys for Receiver  
KRISTA L. FREITAG