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10 Attorneys for Receiver
11 THOMAS HEBRANK

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 SECURITIES AND EXCHANGE
15 COMMISSION,

16 Plaintiff,

17 v.

18 PACIFIC WEST CAPITAL GROUP,
INC.; ANDREW B CALHOUN IV;
19 PWCG TRUST; BRENDA CHRISTINE
BARRY; BAK WEST, INC.; ANDREW B
20 CALHOUN JR.; ERIC CHRISTOPHER
CANNON; CENTURY POINT, LLC;
21 MICHAEL WAYNE DOTTA; and
CALEB AUSTIN MOODY (dba SKY
22 STONE),

23 Defendants.

Case No. 2:15-cv-02563-DDP-FFM

**RECEIVER'S ELEVENTH
INTERIM REPORT AND
RECOMMENDATIONS**

Ctrm.: 9C
Judge: Hon. Dean D. Pregerson

1 Thomas C. Hebrank ("Receiver"), the Court-appointed permanent receiver for
2 PWCG Trust pursuant to the Judgment as to Defendant PWCG Trust ("Appointment
3 Order") (Dkt. No. 145), hereby submits this Eleventh Interim Report and
4 Recommendations. This report covers the Receiver's activities during the third
5 quarter of 2020.

6 I. EXECUTIVE SUMMARY

7 Pursuant to the powers, authority, and directives contained in the Appointment
8 Order, the Receiver has continued his work to preserve and protect the assets of
9 PWCG Trust, including its life insurance policies ("Policies") and cash reserves.
10 Pursuant to the Court's orders, the Receiver has pooled the cash reserves and, with
11 assistance from ITM Twentyfirst ("21st"), has continued to manage the portfolio of
12 Policies, make all required premium payments to keep the Policies in force, and
13 tracked and collected death benefits from Policy maturities.

14 With respect to the administration of claims against the receivership estate,
15 and pursuant to the Court's orders, the Receiver sent claim notices to investors in
16 June 2020. The Receiver has now completed his review and analysis of claims and
17 filed his motion seeking approval of allowed claim amounts, resolution of disputed
18 claims, approval of his proposed Distribution Plan, and authority to make an interim
19 distribution in the total amount of \$39 million, which motion is now under
20 submission. Dkt. 375.

21 II. SUMMARY OF RECEIVER'S WORK

22 The Receiver's focus during the third quarter was on managing and servicing
23 the portfolio of Policies, which currently contains a total of 60 active Policies with
24 death benefits totaling approximately \$114.9 million. The Receiver also analyzed
25 investor claims and worked to resolve claim disputes asserted during the claims
26 notice and submission period. At the conclusion of this process, the number of
27 remaining claim disputes was very small – there are only six disputed claims left to
28 be resolved.

1 As noted above, the Receiver has also sought approval of a proposed plan for
2 distributing receivership estate funds to those with allowed claims. Based on recent
3 Policy maturities, the Receiver proposes to make a pro-rata interim distribution in the
4 total amount of \$39 million to those with allowed claims.

5 **III. REEVALUATION OF PWCG TRUST PORTFOLIO**

6 Following his appointment in February 2018, the Receiver engaged 21st to,
7 among other things, obtain updated life expectancy reports ("LE Reports") for the
8 insureds under the policies in the PWCG Trust portfolio and provide a valuation
9 analysis. Based on that valuation analysis, as well as a sophisticated cash flow
10 projection and "Monte Carlo" simulation performed on the portfolio, it was
11 determined that the recovery for investors if the Receiver were to sell or surrender
12 certain "negative value policies" and maintain the remaining policies through their
13 maturities would likely be significantly greater than were the Receiver to sell the
14 entire portfolio in the short term (even factoring in the time value of money). This
15 was the case even though it looked as though the Receiver would need to borrow
16 money to cover policy premiums in the short term and that it may not be possible to
17 make distributions for 3-4 years, if not longer.

18 It was also determined that the portfolio should be reevaluated periodically to
19 ensure the analysis of likely outcomes has not changed materially and that the best
20 approach for maximizing the recovery for investors continues to be for the Receiver
21 to hold the remaining policies and maintain them in force through their maturities.
22 Therefore, in mid-2020, the Receiver determined that sufficient time had passed and
23 material changes to the overall portfolio had occurred to warrant a reevaluation of the
24 portfolio (including sales and surrenders of negative value policies and a substantial
25 number of policy maturities). Accordingly, the Receiver directed 21st to obtain
26 updated LE Reports for the insureds and provide an updated valuation analysis of the
27 policies. That analysis was recently completed and continues to support the prior
28

1 determination that maintaining the policies in force through their maturities is likely
2 to produce a greater overall recovery.

3 In particular, policies with death benefits totaling more than \$66.5 million
4 have matured since the Receiver's appointment, which has not only covered all
5 policy premiums (without borrowing any money), but has also allowed the Receiver
6 to propose, based on a conservative cash flow projection, an interim distribution in
7 the total amount of \$39 million. If approved, this interim distribution, which
8 translates to a 36.5% initial recovery for investors based on the Receiver's proposed
9 allowed claim amounts, will be made in early 2021. As noted above, currently there
10 are 60 policies remaining in the portfolio with death benefits totaling approximately
11 \$114.9 million.

12 The Receiver will continue to closely monitor the performance of the portfolio
13 and, assuming he is authorized to do so by the Court, will make further rounds of
14 interim distributions to investors with allowed claims at such times as when, as a
15 result of policy maturities, cash has accumulated in the receivership estate to allow
16 the Receiver to safely make such distributions.

17 IV. PENDING LITIGATION

18 At the time of the Receiver's appointment, PWCG Trust had been named as a
19 defendant in four lawsuits pending in Superior Court in Los Angeles.¹ These
20 lawsuits had each been filed by one or more investors, either individually or as a
21 putative class. The Receiver filed notice of the Appointment Order and the litigation
22 stay contained therein in each case and contacted counsel for the other parties. As a
23 result, the litigation stay has been observed by the state court and the parties in each
24 case. The Superior Court has held several case management conferences in an effort
25 to determine whether the cases can proceed against the other defendants in light of
26

27 ¹ Two of these cases, known as the *Rhyme* and *Names* cases, have since been
28 dismissed. The two other cases, known as the *Shechter* and *Applebaum* cases,
have been related before the same court.

1 the stay of all claims as to PWCG Trust. At present, each of the lawsuits have been
2 stayed.

3 The Receiver has also been in communication with the investor plaintiffs,
4 through their counsel, about the claims involved in the pending cases, the Receiver's
5 claims against former trustee, Mills Potoczak & Company ("MPC"), and the most
6 cost-efficient way to pursue such claims. On May 5, 2020, the Receiver filed his
7 motion for authority to pursue claims against MPC, which motion was granted on
8 July 31, 2020. Dkt. 335, 357. The Receiver filed his Complaint against MPC (along
9 with a Notice of Related Action to have the case assigned to this Court) on
10 September 3, 2020. Although the Receiver believes it is in the best interests of the
11 receivership estate to move forward with his action against MPC, he continues to
12 discuss a possible settlement with MPC and counsel for the putative investor class.

13 **V. INVESTOR COMMUNICATIONS**

14 The Receiver has established a dedicated web page on his website which is
15 being used to provide case information, regular updates, and answers to frequently
16 asked questions to investors and creditors. The Internet address for the webpage is as
17 follows: <http://www.ethreadvisors.com/cases/pwcg/>. The Receiver mailed a letter
18 to all investors in the week following his appointment to inform them of the
19 receivership and direct them to the website to obtain further notices and updates.
20 The Receiver has posted the Appointment Order and other filings relating to the
21 receivership on the webpage and will continue to update it with relevant filings and
22 orders of the Court. Investors and creditors can sign up at the webpage to receive
23 monthly email updates about the case. To ensure receipt of future notices, investors
24 and creditors should promptly contact the Receiver's office at
25 pwcg@ethreadvisors.com if their contact information changes and provide their
26 new contact information.

VI. SUMMARY OF RECEIPTS AND DISBURSEMENTS

The following table reflects a summary of the receipts and disbursements for the receivership estate from July 1, 2020, through September 30, 2020:

Balance as of 7/1/20	\$13,866,950
Policy Maturities	\$32,557,869
Misc. Income	\$2,985
Disbursements to Receiver/Professionals	(\$86,852)
Policy Premium Pmts & Business Asset Expenses	(\$1,630,218)
Ending Balance as of 9/30/20	\$44,720,175

In addition, the Standardized Fund Accounting Report for the receivership estate for the time period July 1, 2020, through September 30, 2020, is attached hereto as Exhibit A.

Although not reflected above, there have been several recent maturities for Policies with death benefits totaling approximately \$9.6 million outstanding as of September 30, 2020. Some of these death benefits have been received and others are expected to be received in the next 60 days. Not only will this substantially increase the cash balance in the receivership estate, but these maturities also reduce the Policy premium payments that were expected to be needed over the next several years.

VII. RECOMMENDATIONS

The Receiver's efforts to investigate and analyze assets, gather records, and analyze potential claims against third parties are ongoing. The Receiver and his professionals make the following recommendations.

A. Document Recovery Efforts

The Receiver has obtained records from MPC, Pacific West, Calhoun, BroadRiver, and financial institutions where PWCG Trust maintained accounts. As

1 noted above, the Receiver has issued several subpoenas and will issue additional
2 subpoenas as necessary to obtain relevant documents, assets, and information.

3 **B. Provide Reports to the Court on a Quarterly Basis**

4 The Receiver will continue to provide reports to the Court on a quarterly basis,
5 as well as seeking Court approval of fees and costs on a quarterly basis.

6 **C. MPC Litigation**

7 The Receiver will continue to pursue claims against MPC on behalf of PWCG
8 Trust, will coordinate efforts with counsel for the putative investor class, and will
9 seek Court approval of any proposed settlement reached between and among the
10 parties.

11 **D. Claims Review and Distribution Plan**

12 As discussed above, the Receiver has filed his motion seeking approval of
13 allowed claim amounts, resolution of disputed claims, approval of his proposed
14 Distribution Plan, and authority to make an interim distribution in the total amount of
15 \$39 million, which motion is now under submission.

16
17 Dated: January 14, 2021

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

18
19 By: /s/ Edward G. Fates

EDWARD G. FATES
Attorneys for Receiver
THOMAS HEBRANK

EXHIBIT A

Thomas C. Hebrank, Receiver
E3 Advisors
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San Diego, CA 92101
(619) 567-7223

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL - RECEIVERSHIP FUND

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,

v.

PACIFIC WEST CAPITAL GROUP, INC.; ANDREW B CALHOUN IV; PWCG TRUST; et
al, Defendants

Case No. 2:15-cv-02563 FMO (FFMx)

REPORTING PERIOD 07/01/20 TO 09/30/20

Case No. 2:15-cv-02563-FFM (FFMx)
 Reporting Period 07/01/20 to 09/30/20

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 07/01/20):	13,866,950		13,866,950
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	32,557,869		32,557,869
Line 4 Interest/Dividend Income	9,441		9,441
Line 5 Business Asset Liquidation	-		-
Line 6 Personal Asset Liquidation	-		-
Line 7 Third-Party Litigation Income	-		-
Line 8 Misc - Insurance & Prop Tax Refunds	2,985		2,985
Total Funds Available (Lines 1 - 8):	46,437,245		46,437,245
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	-		-
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	(86,852)		(86,852)
Line 10b Business Asset Expenses	(1,630,218)		(1,630,218)
Line 10c Personal Asset Expenses	-		-
Line 10d Investment Expenses	-		-
Line 10e Third-Party Litigation Expenses	-		-
1. Attorney Fees	-		-
2. Litigation Expenses	-		-
Total Third-Party Litigation Expenses	-		-
Line 10f Tax Administrator Fees and Bonds	-		-
Line 10g Federal and State Tax Payments	-		-
Total Disbursements for Receivership Operations	-		(1,717,070)
Line 11 Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a Distribution Plan Development Expenses:			
1. Fees:			
Fund Administrator.....	-		-
Independent Distribution Consultant (IDC).....	-		-
Distribution Agent.....	-		-
Consultants.....	-		-
Legal Advisors.....	-		-
Tax Advisors.....	-		-
2. Administrative Expenses	-		-
3. Miscellaneous	-		-
Total Plan Developmental Expenses	-		-
Line 11b Distribution Plan Implementation Expenses:			
1. Fees:			
Fund Administrator.....	-		-
IDC.....	-		-
Distribution Agent.....	-		-
Consultants.....	-		-
Legal Advisors.....	-		-
Tax Advisors.....	-		-
2. Administrative Expenses	-		-
3. Investor Identification:			
Notice/Publishing Approved Plan.....	-		-
Claimant Identification.....	-		-
Claims Processing.....	-		-
Web Site Maintenance/Call Center.....	-		-
4. Fund Administrator Bond	-		-
5. Miscellaneous	-		-
6. Federal Account for Investor Restitution (FAIR) Reports Expenses	-		-
Total Plan Implementation Expenses	-		-
Total Disbursements for Distribution Expenses Paid by the Fund	-		-
Line 12 Disbursements to Court/Other:			
Line 12a Investment Expenses/Court Registry Investment System (CRIS) Fees	-		-
Line 12b Federal Tax Payments	-		-
Total Disbursement to Court/Other:	-		-
Total Funds Disbursed (Lines 9 - 11):			(1,717,070)
Line 13 Ending Balance (As of 09/30/20):			44,720,175

STANDARD FUND ACCOUNTING REPORT For PWOC Trust, Cash Basis
Case No. 2:15-cv-02563-FMO (FFMx)
#10941
Reporting Period 07/01/20 to 09/30/20

Line 14 Ending Balance of Fund - Net Assets:			
Line 14a Cash & Cash Equivalents			44,720,175
Line 14b Investments			-
Line 14c Other Assets or Uncleared Funds			-
Total Ending Balance of Fund - Net Assets			44,720,175
OTHER SUPPLEMENTAL INFORMATION:			
	Detail	Subtotal	Grand Total
Report of Items NOT to be Paid by the Fund:			
Line 15 Disbursement for Plan Administration Expenses Not Paid by the Fund:			
Line 15a Plan Development Expenses Not Paid by the Fund:			
1. Fees:			
Fund Administrator.....	-		-
IDC.....	-		-
Distribution Agent.....	-		-
Consultants.....	-		-
Legal Advisors.....	-		-
Tax Advisors.....	-		-
2. Administrative Expenses	-		-
3. Miscellaneous	-		-
Total Plan Developmental Expenses Not Paid by the Fund			-
Line 15b Plan Implementation Expenses Not Paid by the Fund			
1. Fees:			
Fund Administrator.....	-		-
IDC.....	-		-
Distribution Agent.....	-		-
Consultants.....	-		-
Legal Advisors.....	-		-
Tax Advisors.....	-		-
2. Administrative Expenses	-		-
3. Investor Identification			
Notice/Publishing Approved Plan.....	-		-
Claimant Identification.....	-		-
Claims Processing.....	-		-
Web Site Maintenance/Call Center.....	-		-
4. Fund Administrator Bond	-		-
5. Miscellaneous	-		-
6. FAIR Reporting Expenses	-		-
Total Plan Implementation Expenses Not Paid by the Fund			-
Line 15c Tax Administrator Fees & Bonds Not Paid by the Fund			-
Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-
Line 16 Disbursements to Court/Other Not Paid by the Fund:			
Line 16a Investment Expenses/CRIS Fees	-		-
Line 16b Federal Tax Payments	-		-
Total Disbursement to Court/Other Not Paid by the Fund:			-
Line 17 DC & State Tax Payments		-	-
Line 18 No. of Claims:			
Line 18a # of Claims Received This Reporting Period.....			1,548
Line 18b # of Claims Received Since Inception of Fund.....			1,548
Line 19 No. of Claimants/Investors:			
Line 19a # of Claimants/Investors Paid this Reporting Period.....			0
Line 19b # of Claimants/Investors Paid Since Inception of Fund.....			0

Receiver:

By:

Thomas C. Hebrank

Court-Appointed Receiver

Date:

12/4/20

PWCG Trust

Quarterly Operating Report - Financial Summaries

	RR#8	RR#9	RR#10	RR#11
Beginning Cash	14,384,676	13,599,540	12,322,045	13,866,950
<u>Receipts</u>				
Policy Maturities	904,808	1,000,000	3,363,529	32,557,869
Interest Income	20,908	17,284	96,109	9,441
Miscellaneous - Other				2,985
Policy Sales	-	-	-	-
Total Receipts	925,716	1,017,284	3,459,638	32,570,295
<u>Disbursements</u>				
Disbursements to Receiver/Professionals	-	(177,029)	(122,729)	(86,852)
Business Asset Expenses	(1,709,724)	(2,117,750)	(1,792,004)	(1,630,218)
Litigation Expenses	(450)	-	-	-
Net Business Asset Expenses	(1,710,174)	(2,294,779)	(1,914,733)	(1,717,070)
Federal and State Tax Payments	(679)	-	-	-
Total Disbursements	(1,710,853)	(2,294,779)	(1,914,733)	(1,717,070)
Ending Cash	13,599,540	12,322,045	13,866,950	44,720,175
<u>Bank Statements</u>				
Checking	96,829	117,050	112,317	125,246
PWCG Trust #1	1,181,919	556,980	1,450,470	7,577,311
PWCG Trust #2	1,431,411	741,488	1,301,583	6,005,757
CD	5,329,347	5,329,347	5,418,254	5,418,254
CBB	5,560,034	5,577,181	5,584,327	5,590,495
Western Alliance				20,003,111
	13,599,540	12,322,045	13,866,950	44,720,175