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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 TWELFTH  
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 Twelfth Interim Report and  
4 Recommendations. This report covers the Receiver's activities during the fourth  
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 completed his review and analysis of claims and filed his  
17 motion seeking approval of allowed claim amounts, resolution of disputed claims,  
18 approval of his proposed Distribution Plan, and authority to make an interim  
19 distribution, which motion was approved on January 28, 2021. Dkt. 393. Interim  
20 distribution checks were mailed out to investors with allowed claims on February 26,  
21 2021.

## 22 II. SUMMARY OF RECEIVER'S WORK

23 The Receiver's focus during the fourth quarter was on managing and servicing  
24 the portfolio of Policies, which currently contains a total of 61 active Policies with  
25 death benefits totaling approximately \$118.6 million. The Receiver also analyzed  
26 investor claims and worked to resolve claim disputes asserted during the claims  
27 notice and submission period. At the conclusion of this process, the number of  
28 remaining claim disputes was very small – there are only six disputed claims left to

1 be resolved. As noted above, the Receiver also sought and obtained approval of a  
2 plan for distributing receivership estate funds to those with allowed claims and the  
3 first round of distribution checks was mailed out on February 26, 2021.

### 4 **III. REEVALUATION OF PWCG TRUST PORTFOLIO**

5 When the Receiver's initial evaluation of the portfolio of Policies was  
6 completed (toward the end of 2018), it was determined that the portfolio should be  
7 reevaluated periodically to ensure the analysis of likely outcomes has not changed  
8 materially and that the best approach for maximizing the recovery for investors  
9 continues to be for the Receiver to hold the remaining policies and maintain them in  
10 force through their maturities. Therefore, in mid-2020, the Receiver determined that  
11 sufficient time had passed and material changes to the overall portfolio had occurred  
12 to warrant a reevaluation of the portfolio (including sales and surrenders of negative  
13 value policies and a substantial number of policy maturities). Accordingly, the  
14 Receiver directed 21<sup>st</sup> to obtain updated LE Reports for the insureds and provide an  
15 updated valuation analysis of the policies. That analysis was recently completed and  
16 continues to support the prior determination that maintaining the policies in force  
17 through their maturities is likely to produce a greater overall recovery.

18 In particular, policies with death benefits totaling more than \$62.3 million  
19 have matured since the Receiver's appointment, which has not only covered all  
20 policy premiums (without borrowing any money), but has also allowed the Receiver  
21 to make a substantial interim distribution in the total amount of \$37 million. As  
22 noted above, currently there are 61 policies remaining in the portfolio with death  
23 benefits totaling approximately \$118.6 million.

24 It should be noted that although the Receiver projected that \$39 million could  
25 be distributed now and the Court authorized distribution of that amount, the total  
26 amount distributed was actually \$2 million less (\$37 million). The reason for this is  
27 twofold; (1) a policy was incorrectly reported as matured, when it is actually a  
28

1 survivorship policy where only one insured has passed, and (2) delays by the insurers  
2 in paying out on policies due to pandemic-related logistical issues.

3 The Receiver will continue to closely monitor the performance of the portfolio  
4 and, pursuant to the Court-approved Distribution Plan, will make further rounds of  
5 interim distributions to investors with allowed claims at such times as when, as a  
6 result of policy maturities, cash has accumulated in the receivership estate to allow  
7 the Receiver to safely make such distributions.

#### 8 IV. PENDING LITIGATION

9 At the time of the Receiver's appointment, PWCG Trust had been named as a  
10 defendant in four lawsuits pending in Superior Court in Los Angeles.<sup>1</sup> These  
11 lawsuits had each been filed by one or more investors, either individually or as a  
12 putative class. The Receiver filed notice of the Appointment Order and the litigation  
13 stay contained therein in each case and contacted counsel for the other parties. As a  
14 result, the litigation stay has been observed by the state court and the parties in each  
15 case. The Superior Court has held several case management conferences in an effort  
16 to determine whether the cases can proceed against the other defendants in light of  
17 the stay of all claims as to PWCG Trust. At present, each of the lawsuits have been  
18 stayed.

19 The Receiver has also been in communication with the investor plaintiffs,  
20 through their counsel, about the claims involved in the pending cases, the Receiver's  
21 claims against former trustee, Mills Potoczak & Company ("MPC"), and the most  
22 cost-efficient way to pursue such claims. On May 5, 2020, the Receiver filed his  
23 motion for authority to pursue claims against MPC, which motion was granted on  
24 July 31, 2020. Dkt. 335, 357. The Receiver filed his Complaint against MPC (along  
25  
26

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27 <sup>1</sup> 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 with a Notice of Related Action to have the case assigned to this Court) on  
2 September 3, 2020.

3 Although the Receiver believes it is in the best interests of the receivership  
4 estate to move forward with his action against MPC, he continues to discuss a  
5 possible settlement with MPC and counsel for the putative investor class. The  
6 Receiver, the putative investor class, and MPC (including its insurance carriers) are  
7 scheduled to attend mediation with the Hon. Carl West (Ret.) on May 11, 2021.

## 8 **V. INVESTOR COMMUNICATIONS**

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

## 22 **VI. SUMMARY OF RECEIPTS AND DISBURSEMENTS**

23 The following table reflects a summary of the receipts and disbursements for  
24 the receivership estate from October 1, 2020, through December 31, 2020:  
25  
26  
27  
28

Balance as of 10/01/20	\$44,720,175
Policy Maturities	\$0
Misc. Income	\$17,010
Disbursements to Receiver/Professionals	(\$136,536)
Policy Premium Pmts & Business Asset Expenses	(\$1,522,043)
Ending Balance as of 12/31/20	\$43,078,606

In addition, the Standardized Fund Accounting Report for the receivership estate for the time period October 1, 2020, through December 31, 2020, is attached hereto as Exhibit A.

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

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

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

### **C. MPC Litigation**

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

1           **D.     Claims and Distributions**

2           As discussed above, all claims against the receivership estate have now been  
3 resolved and the Court has approved the Receiver's Distribution Plan. The Receiver  
4 will continue to closely monitor the performance of the portfolio and, pursuant to the  
5 Court-approved Distribution Plan, will make further rounds of interim distributions  
6 to investors with allowed claims at such times as when, as a result of policy  
7 maturities, cash has accumulated in the receivership estate to allow the Receiver to  
8 safely make such distributions.

9  
10 Dated: March 8, 2021

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

11  
12 By:           /s/ Edward G. Fates          

13 EDWARD G. FATES  
14 Attorneys for Receiver  
15 THOMAS HEBRANK  
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# EXHIBIT A



Thomas C. Hebrank, Receiver  
E3 Advisors  
501 West Broadway, Suite 290  
San Diego, CA 92101  
(619) 567-7223

## **STANDARDIZED FUND ACCOUNTING REPORT**

**CIVIL - RECEIVERSHIP FUND**

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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 10/01/20 TO 12/31/20

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 10/01/20):	44,720,175		44,720,175
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	-		-
Line 4 Interest/Dividend Income	17,010		17,010
Line 5 Business Asset Liquidation	-		-
Line 6 Personal Asset Liquidation			-
Line 7 Third-Party Litigation Income			-
Line 8 Misc - Insurance & Prop Tax Refunds			-
Total Funds Available (Lines 1 - 8):	44,737,185		44,737,185
<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	(136,536)		(136,536)
Line 10b Business Asset Expenses	(1,522,043)		(1,522,043)
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	-		(1,658,579)
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):			(1,658,579)
Line 13 Ending Balance (As of 12/31/20):			43,078,606

Case No. 2:15-cv-02563-FFM (FFMx)  
 Reporting Period 10/01/20 to 12/31/20

<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			
Line 14a	Cash & Cash Equivalents			43,078,606
Line 14b	Investments			-
Line 14c	Other Assets or Uncleared Funds			-
	<b>Total Ending Balance of Fund - Net Assets</b>			<b>43,078,606</b>

OTHER SUPPLEMENTAL INFORMATION:				
		<u>Detail</u>	<u>Subtotal</u>	<u>Grand Total</u>
<b>Report of Items NOT to be Paid by the Fund:</b>				
<b>Line 15</b>	<b>Disbursement for Plan Administration Expenses Not Paid by the Fund:</b>			
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	-		-
	<b>Total Plan Developmental Expenses Not Paid by the Fund</b>			<b>-</b>
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	-		-
	<b>Total Plan Implementation Expenses Not Paid by the Fund</b>			<b>-</b>
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund			-
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			<b>-</b>
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			
Line 16a	Investment Expenses/CRIS Fees	-		-
Line 16b	Federal Tax Payments	-		-
	<b>Total Disbursement to Court/Other Not Paid by the Fund:</b>			<b>-</b>
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>	-		-
<b>Line 18</b>	<b>No. of Claims:</b>			
Line 18a	# of Claims Received This Reporting Period.....			1,548
Line 18b	# of Claims Received Since Inception of Fund.....			1,548
<b>Line 19</b>	<b>No. of Claimants/Investors:</b>			
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:

3/3/21



## PWCG Trust

### Quarterly Operating Report - Financial Summaries

	RR#9	RR#10	RR#11	RR#12
Beginning Cash	13,599,540	12,322,045	13,866,950	44,720,175
<u>Receipts</u>				
Policy Maturities	1,000,000	3,363,529	32,557,869	-
Interest Income	17,284	96,109	9,441	17,010
Miscellaneous - Other			2,985	-
Policy Sales	-	-	-	-
Total Receipts	1,017,284	3,459,638	32,570,295	17,010
<u>Disbursements</u>				
Disbursements to Receiver/Professionals	(177,029)	(122,729)	(86,852)	(136,536)
Business Asset Expenses	(2,117,750)	(1,792,004)	(1,630,218)	(1,522,043)
Litigation Expenses	-	-	-	-
Net Business Asset Expenses	(2,294,779)	(1,914,733)	(1,717,070)	(1,658,580)
Federal and State Tax Payments	-	-	-	-
Total Disbursements	(2,294,779)	(1,914,733)	(1,717,070)	(1,658,580)
Ending Cash	12,322,045	13,866,950	44,720,175	43,078,606
<u>Bank Statements</u>				
Checking	117,050	112,317	125,246	121,668
PWCG Trust #1	556,980	1,450,470	7,577,311	5,922,482
PWCG Trust #2	741,488	1,301,583	6,005,757	6,005,906
CD	5,329,347	5,418,254	5,418,254	5,418,254
CBB	5,577,181	5,584,327	5,590,495	5,594,586
Western Alliance			20,003,111	20,015,711
	12,322,045	13,866,950	44,720,175	43,078,606