

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

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

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 THIRTEENTH
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 Thirteenth Interim Report and
4 Recommendations. This report covers the Receiver's activities during the first
5 quarter of 2021.

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. As of March 31, 2021, a total of \$30,710,736 in interim distribution checks
22 had been cashed and cleared from the receivership account.

23 II. SUMMARY OF RECEIVER'S WORK

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

1 remaining claim disputes was very small – there are only six disputed claims left to
2 be resolved. As noted above, the Receiver also sought and obtained approval of a
3 plan for distributing receivership estate funds to those with allowed claims and the
4 first round of distribution checks was mailed out on February 26, 2021.

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

10 III. PENDING LITIGATION

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

21 The Receiver has also been in communication with the investor plaintiffs,
22 through their counsel, about the claims involved in the pending cases, the Receiver's
23 claims against former trustee, Mills Potoczak & Company ("MPC"), and the most
24 cost-efficient way to pursue such claims. On May 5, 2020, the Receiver filed his
25 motion for authority to pursue claims against MPC, which motion was granted on
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 July 31, 2020. Dkt. 335, 357. The Receiver filed his Complaint against MPC (along
2 with a Notice of Related Action to have the case assigned to this Court) on
3 September 3, 2020. MPC filed its Answer to the Receiver's Complaint on
4 November 19, 2020.

5 Although the Receiver believes it is in the best interests of the receivership
6 estate to move forward with his action against MPC, he continues to discuss a
7 possible settlement with MPC and counsel for the putative investor class. MPC is
8 currently in discussions with one of its insurance carriers regarding the carrier's
9 position as to coverage of the Receiver and investor class claims. If the insurance
10 coverage issue can be resolved in the near term, the Receiver, the putative investor
11 class and MPC plan to attend mediation with the Hon. Carl West (Ret.) of JAMS.

12 **IV. INVESTOR COMMUNICATIONS**

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

26 **V. SUMMARY OF RECEIPTS AND DISBURSEMENTS**

27 The following table reflects a summary of the receipts and disbursements for
28 the receivership estate from January 1, 2021, through March 31, 2021:

1	Balance as of 12/31/20	\$43,078,606
2	Policy Maturities	\$6,421,073
3	Investor Recoveries	\$167,783
4	Misc. Income	\$11,046
5	Disbursements to Receiver/Professionals	(\$0)
6	Policy Premium Pmts & Business Asset Expenses	(\$1,614,874)
7	Investor Distributions	(\$30,710,736)
8	Ending Balance as of 3/31/21	\$17,352,898

10 In addition, the Standardized Fund Accounting Report for the receivership
11 estate for the time period January 1, 2021, through March 31, 2021, is attached
12 hereto as Exhibit A.

13 VI. RECOMMENDATIONS

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

17 A. Document Recovery Efforts

18 The Receiver has obtained records from MPC, Pacific West Capital Group,
19 inc., Andrew Calhoun, BroadRiver Asset Management, and financial institutions
20 where PWCG Trust maintained accounts. As noted above, the Receiver has issued
21 several subpoenas and will issue additional subpoenas as necessary to obtain relevant
22 documents, assets, and information.

23 B. Provide Reports to the Court on a Quarterly Basis

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

1 **C. MPC Litigation**

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

6 **D. Claims and Distributions**

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

14
15 Dated: May 13, 2021

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

16
17 By: /s/ Edward G. Fates

EDWARD G. FATES
Attorneys for Receiver
THOMAS HEBRANK

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

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 01/01/21 TO 03/31/21

Case No. 2:15-cv-02563-FMO (FFMx)
 Reporting Period 01/01/21 to 03/31/21

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 01/01/21):	43,078,606		43,078,606
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	6,421,073		6,421,073
Line 4 Interest/Dividend Income	11,035		11,035
Line 5 Business Asset Liquidation	-		-
Line 6 Personal Asset Liquidation			-
Line 7 Third-Party Litigation Income	167,783		167,783
Line 8 Misc - Insurance & Prop Tax Refunds	11		11
Total Funds Available (Lines 1 - 8):	49,678,508		49,678,508
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	(30,710,736.00)		(30,710,736.00)
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	-		-
Line 10b Business Asset Expenses	(1,614,874)		(1,614,874)
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	-		(1,614,874)
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):			(32,325,610)
Line 13 Ending Balance (As of 03/31/21):			17,352,898

Case No. 2:15-cv-02563 FMO (FFMx)
 Reporting Period 01/01/21 to 03/31/21

Line 14 Ending Balance of Fund - Net Assets:			
Line 14a Cash & Cash Equivalents			17,352,898
Line 14b Investments			-
Line 14c Other Assets or Uncleared Funds			-
Total Ending Balance of Fund - Net Assets			17,352,898

OTHER SUPPLEMENTAL INFORMATION:			
	<u>Detail</u>	<u>Subtotal</u>	<u>Grand Total</u>
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.....			1548
Line 19b # of Claimants/Investors Paid Since Inception of Fund.....			1548

Receiver:

By:



Thomas C. Hebrank

Court-Appointed Receiver

Date:

5/5/21

PWCG Trust

Quarterly Operating Report - Financial Summaries

	RR#10	RR#11	RR#12	RR#13
Beginning Cash	12,322,045	13,866,950	44,720,175	43,078,606
<u>Receipts</u>				
Policy Maturities	3,363,529	32,557,869	-	6,421,073
Investor Recoveries				167,783
Interest Income	96,109	9,441	17,010	11,035
Miscellaneous - Other		2,985	-	11
Policy Sales	-	-	-	-
Total Receipts	3,459,638	32,570,295	17,010	6,599,902
<u>Disbursements</u>				
Disbursements to Receiver/Professionals	(122,729)	(86,852)	(136,536)	-
Business Asset Expenses	(1,792,004)	(1,630,218)	(1,522,043)	(1,614,874)
Investor Distributions				(30,710,736)
Litigation Expenses	-	-	-	-
Net Business Asset Expenses	(1,914,733)	(1,717,070)	(1,658,580)	(32,325,610)
Federal and State Tax Payments	-	-	-	-
Total Disbursements	(1,914,733)	(1,717,070)	(1,658,580)	(32,325,610)
Ending Cash	13,866,950	44,720,175	43,078,606	17,352,898
<u>Bank Statements</u>				
Checking	112,317	125,246	121,668	116,794
PWCG Trust #1	1,450,470	7,577,311	5,922,482	2,904,808
PWCG Trust #2	1,301,583	6,005,757	6,005,906	2,598,393
CD	5,418,254	5,418,254	5,418,254	5,418,254
CBB	5,584,327	5,590,495	5,594,586	-
Western Alliance		20,003,111	20,015,711	6,314,649
	13,866,950	44,720,175	43,078,606	17,352,898