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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 FOURTEENTH  
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 Fourteenth Interim Report and  
4 Recommendations. This report covers the Receiver's activities during the second  
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 June 30, 2021, a total of \$35.9 in interim distribution checks had been  
22 cashed and cleared from the receivership account.

## 23 II. SUMMARY OF THE RECEIVER'S WORK

24 The Receiver's focus during the second quarter was on managing and servicing  
25 the portfolio of Policies, which currently contains a total of 59 active Policies with  
26 death benefits totaling approximately \$116.1 million. As noted above, the Receiver  
27 issued an initial round of interim distribution checks in the aggregate amount of  
28 \$37 million to investors with allowed claims. The Receiver will continue to closely

1 monitor the performance of the portfolio (as well as recoveries from other sources)  
2 and, pursuant to the Court-approved Distribution Plan, will make further rounds of  
3 interim distributions to investors with allowed claims at such times as when, as a  
4 result of policy maturities, cash has accumulated in the receivership estate to allow  
5 the Receiver to safely make such distributions.

6 **A. Pending Litigation**

7 At the time of the Receiver's appointment, PWCG Trust had been named as a  
8 defendant in four lawsuits pending in Superior Court in Los Angeles.<sup>1</sup> These  
9 lawsuits had each been filed by one or more investors, either individually or as a  
10 putative class. The Receiver filed notice of the Appointment Order and the litigation  
11 stay contained therein in each case and contacted counsel for the other parties. As a  
12 result, the litigation stay has been observed by the state court and the parties in each  
13 case.

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

23 Although the Receiver believes it is in the best interests of the receivership  
24 estate to move forward with his action against MPC and he is doing so through  
25 discovery, he continues to discuss a possible settlement with MPC and counsel for  
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 the putative investor class. MPC is currently planning to attend mediation with its  
2 insurance carriers regarding the carriers' positions as to coverage of the Receiver and  
3 investor class claims. If the insurance coverage issue can be resolved in the near  
4 term, the Receiver, the putative investor class and MPC plan to attend mediation with  
5 the Hon. Carl West (Ret.) of JAMS.

6 **B. Clawback Recoveries**

7 As previously reported, there were some investors in PWCG Trust who  
8 received a profit or net gain from their investments. The law allows the Receiver to  
9 recover such profits under the California Uniform Voidable Transactions Act. The  
10 Receiver issued demands to those investors who received a profit and has  
11 successfully settled a number of these claims (known as "Clawback Claims") without  
12 litigation. To date, the total amount recovered through Clawback settlements is  
13 approximately \$243,000, including two settlements that are pending Court approval.  
14 Dkt. 427.

15 **C. Investor Communications**

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

**III. SUMMARY OF RECEIPTS AND DISBURSEMENTS**

The following table reflects a summary of the receipts and disbursements for the receivership estate from April 1, 2021, through June 30, 2021:

Balance as of 3/31/21	\$17,352,898
Policy Maturities	\$2,469,853
Investor Recoveries	\$21,000
Misc. Income	\$7,088
Disbursements to Receiver/Professionals	\$253,811
Policy Premium Pmts & Business Asset Expenses	(\$1,771,995)
Federal & State Taxes	(\$3,694,072)
Investor Distributions	(\$4,872,407)
Ending Balance as of 6/30/21	\$9,258,554

In addition, the Standardized Fund Accounting Report for the receivership estate for the corresponding time period April 1, 2021, through June 30, 2021, is attached hereto as Exhibit A.

**IV. RECOMMENDATIONS**

The Receiver's efforts to investigate and analyze assets, pursue claims and maximize recoveries for the receivership estate are ongoing. The Receiver and his professionals make the following recommendations.

**D. Document Recovery Efforts**

The Receiver has obtained records from MPC, Pacific West Capital Group, inc., Andrew Calhoun, BroadRiver Asset Management, 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.

1           **E. Provide Reports to the Court on a Quarterly Basis**

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

4           **F. MPC Litigation**

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

9           **G. Claims and Distributions**

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

17  
18 Dated: August 5, 2021

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

19  
20 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

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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 04/01/21 TO 06/30/21



FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 04/01/21):	17,352,898		17,352,898
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	2,469,853		2,469,853
Line 4 Interest/Dividend Income	7,088		7,088
Line 5 Business Asset Liquidation	-		-
Line 6 Personal Asset Liquidation	-		-
Line 7 Third-Party Litigation Income	21,000		21,000
Line 8 Misc - Insurance & Prop Tax Refunds	-		-
Total Funds Available (Lines 1 - 8):	19,850,839		19,850,839
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	(4,872,407)		(4,872,407)
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	(253,811)		(253,811)
Line 10b Business Asset Expenses	(1,771,995)		(1,771,995)
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	(3,694,072)		(3,694,072)
Total Disbursements for Receivership Operations	(3,694,072)		(5,719,878)
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):			(10,592,285)
Line 13 Ending Balance (As of 06/30/21):			9,258,554

Case No. 2:15-cv-02563-FMO (FFMx)  
 Reporting Period 04/01/21 to 06/30/21

<b>Line 14 Ending Balance of Fund - Net Assets:</b>			
Line 14a Cash & Cash Equivalents			9,258,554
Line 14b Investments			-
Line 14c Other Assets or Uncleared Funds			-
Total Ending Balance of Fund - Net Assets			9,258,554
<b>OTHER SUPPLEMENTAL INFORMATION:</b>			
	<b>Detail</b>	<b>Subtotal</b>	<b>Grand Total</b>
<b>Report of Items NOT to be Paid by the Fund:</b>			
<b>Line 15 Disbursement for Plan Administration Expenses Not Paid by the Fund:</b>			
<b>Line 15a Plan Development Expenses Not Paid by the Fund:</b>			
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>Line 15b Plan Implementation Expenses Not Paid by the Fund</b>			
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>Line 15c Tax Administrator Fees &amp; Bonds Not Paid by the Fund</b>			-
<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			-
<b>Line 16 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>Line 17 DC &amp; State Tax Payments</b>		-	-
<b>Line 18 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 No. of Claimants/Investors:</b>			
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: \_\_\_\_\_

## PWCG Trust

### Quarterly Operating Report - Financial Summaries

	RR#11	RR#12	RR#13	RR#14
Beginning Cash	13,866,950	44,720,175	43,078,606	17,352,898
<u>Receipts</u>				
Policy Maturities	32,557,869	-	6,421,073	2,469,853
Investor Recoveries			167,783	21,000
Interest Income	9,441	17,010	11,035	7,088
Miscellaneous - Other	2,985	-	11	-
Policy Sales	-	-	-	-
Total Receipts	32,570,295	17,010	6,599,902	2,497,941
<u>Disbursements</u>				
Disbursements to Receiver/Professionals	(86,852)	(136,536)	-	(253,811)
Business Asset Expenses	(1,630,218)	(1,522,043)	(1,614,874)	(1,771,995)
Investor Distributions			(30,710,736)	(4,872,407)
Litigation Expenses	-	-	-	-
Net Business Asset Expenses	(1,717,070)	(1,658,580)	(32,325,610)	(6,898,213)
Federal and State Tax Payments	-	-	-	(3,694,072)
Total Disbursements	(1,717,070)	(1,658,580)	(32,325,610)	(10,592,285)
Ending Cash	44,720,175	43,078,606	17,352,898	9,258,555
<u>Bank Statements</u>				
Checking	125,246	121,668	116,794	45,813
PWCG Trust #1	7,577,311	5,922,482	2,904,808	3,972,739
PWCG Trust #2	6,005,757	6,005,906	2,598,393	3,796,458
CD	5,418,254	5,418,254	5,418,254	-
CBB	5,590,495	5,594,586	-	-
Western Alliance	20,003,111	20,015,711	6,314,649	1,443,544
	44,720,175	43,078,606	17,352,898	9,258,554