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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 FIFTEENTH
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 Fifteenth Interim Report and
4 Recommendations. This report covers the Receiver's activities during the third
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 distribution of receivership estate funds to investors with
15 allowed claims, interim distribution checks were mailed out to investors with
16 allowed claims on February 26, 2021. As of September 30, 2021, a total of \$36.3
17 million in interim distribution checks had been cashed and cleared from the
18 receivership account.

19 II. SUMMARY OF THE RECEIVER'S WORK

20 The Receiver's focus during the third quarter was on managing and servicing
21 the portfolio of Policies, which currently contains a total of 57 active Policies with
22 death benefits totaling approximately \$114.1 million. As noted above, the Receiver
23 issued an initial round of interim distribution checks in the aggregate amount of
24 \$37 million to investors with allowed claims. The Receiver will continue to closely
25 monitor the performance of the portfolio (as well as recoveries from other sources)
26 and, pursuant to the Court-approved Distribution Plan, will make further rounds of
27 interim distributions to investors with allowed claims at such times as when, as a
28

1 result of policy maturities, cash has accumulated in the receivership estate to allow
2 the Receiver to safely make such distributions.

3 **A. Pending Litigation**

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

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

20 Although the Receiver believes it is in the best interests of the receivership
21 estate to move forward with his action against MPC and he is doing so through
22 discovery, he continues to discuss a possible settlement with MPC and counsel for
23 the putative investor class. MPC is currently planning to attend mediation with its
24 insurance carriers regarding the carriers' positions as to coverage of the Receiver and
25
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 investor class claims. After the insurance coverage mediation, the Receiver, the
2 putative investor class and MPC plan to attend private mediation.

3 **B. Clawback Recoveries**

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

11 **C. Investor Communications**

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

25 **III. SUMMARY OF RECEIPTS AND DISBURSEMENTS**

26 The following table reflects a summary of the receipts and disbursements for
27 the receivership estate from July 1, 2021, through September 30, 2021:
28

1	Balance as of 7/01/21	\$9,258,555
2	Policy Maturities	\$0
3	Investor Recoveries	\$28,000
4	Misc. Income	\$531
5	Disbursements to Receiver/Professionals	(\$117,466)
6	Policy Premium Pmts & Business Asset Expenses	(\$1,743,320)
7		
8	Federal & State Taxes	\$0
9	Investor Distributions	(\$691,327)
10	Ending Balance as of 9/30/21	\$6,734,973

11 In addition, the Standardized Fund Accounting Report for the receivership
12 estate for the corresponding time period July 1, 2021, through September 30, 2021, is
13 attached hereto as Exhibit A.

14 IV. RECOMMENDATIONS

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

18 D. Document Recovery Efforts

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

24 E. Provide Reports to the Court on a Quarterly Basis

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

1 **F. 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 **G. 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: November 12, 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
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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 07/01/21 TO 09/30/21

STANDARDIZED FUND ACCOUNTING REPORT for PWCG Trust - Cash Basis

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

Reporting Period 07/01/21 to 09/30/21

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 07/01/21):	9,258,555		9,258,555
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	-		-
Line 4 Interest/Dividend Income	531		531
Line 5 Business Asset Liquidation	-		-
Line 6 Personal Asset Liquidation	-		-
Line 7 Third-Party Litigation Income	28,000		28,000
Line 8 Misc - Insurance & Prop Tax Refunds	-		-
Total Funds Available (Lines 1 - 8):	9,287,086		9,287,086
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	(691,327)		(691,327)
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	(117,466)		(117,466)
Line 10b Business Asset Expenses	(1,743,320)		(1,743,320)
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	-		(1,860,786)
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):			(2,552,113)
Line 13 Ending Balance (As of 09/30/21):			6,734,973

STANDARDIZED FUND ACCOUNTING REPORT for PWCG Trust - Cash Basis

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

Reporting Period 07/01/21 to 09/30/21

Line 14 Ending Balance of Fund - Net Assets:			
Line 14a Cash & Cash Equivalents			6,734,973
Line 14b Investments			-
Line 14c Other Assets or Uncleared Funds			-
Total Ending Balance of Fund - Net Assets			6,734,973
OTHER SUPPLEMENTAL INFORMATION:			
Report of Items NOT to be Paid by the Fund:	Detail	Subtotal	Grand Total
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:

PWCG Trust

Quarterly Operating Report - Financial Summaries

	RR#11	RR#12	RR#13	RR#14	RR#15
Beginning Cash	13,866,950	44,720,175	43,078,606	17,352,898	9,258,555
<u>Receipts</u>					
Policy Maturities	32,557,869	-	6,421,073	2,469,853	-
Investor Recoveries			167,783	21,000	28,000
Interest Income	9,441	17,010	11,035	7,088	531
Miscellaneous - Other	2,985	-	11	-	-
Policy Sales	-	-	-	-	-
Total Receipts	32,570,295	17,010	6,599,902	2,497,941	28,531
<u>Disbursements</u>					
Disbursements to Receiver/Professionals	(86,852)	(136,536)	-	(253,811)	(117,466)
Business Asset Expenses	(1,630,218)	(1,522,043)	(1,614,874)	(1,771,995)	(1,743,320)
Investor Distributions			(30,710,736)	(4,872,407)	(691,327)
Litigation Expenses	-	-	-	-	-
Net Business Asset Expenses	(1,717,070)	(1,658,580)	(32,325,610)	(6,898,213)	(2,552,113)
Federal and State Tax Payments	-	-	-	(3,694,072)	-
Total Disbursements	(1,717,070)	(1,658,580)	(32,325,610)	(10,592,285)	(2,552,113)
Ending Cash	44,720,175	43,078,606	17,352,898	9,258,555	6,734,973
<u>Bank Statements</u>					
Checking	125,246	121,668	116,794	45,813	135,028
PWCG Trust #1	7,577,311	5,922,482	2,904,808	3,972,739	3,050,826
PWCG Trust #2	6,005,757	6,005,906	2,598,393	3,796,458	2,796,544
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	752,577
	44,720,175	43,078,606	17,352,898	9,258,554	6,734,973