

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 SIXTEENTH  
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 Sixteenth Interim Report and  
4 Recommendations. This report covers the Receiver's activities during the fourth  
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 December 31, 2021, a total of  
17 \$36.5 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.<sup>1</sup> 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 also communicated with the investor plaintiffs, through their  
12 counsel, about the claims involved in the pending cases, the Receiver's claims against  
13 former trustee, Mills Potoczak & Company ("MPC"), and the most cost-efficient way  
14 to pursue such claims. On May 5, 2020, the Receiver filed his motion for authority  
15 to pursue claims against MPC, which motion was granted on July 31, 2020.  
16 Dkt. 335, 357. The Receiver then filed his Complaint against MPC (along with a  
17 Notice of Related Action to have the case assigned to this Court) on September 3,  
18 2020. MPC filed its Answer to the Receiver's Complaint on November 19, 2020.

19 Although the Receiver believes it is in the best interests of the receivership  
20 estate to move forward with his action against MPC and he is doing so through  
21 discovery, he continues to discuss a possible settlement with MPC and counsel for  
22 the putative investor class. MPC attended a mediation with its insurance carriers  
23 regarding the carriers' positions as to coverage of the Receiver and investor class  
24 claims in November. The Receiver, the putative investor class, MPC, and MPC's  
25 insurance carriers then attended a private mediation on January 13, 2022.

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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 cases did not settle at mediation; the insurance carriers' position on  
2 coverage of the claims asserted by the Receiver and by the investors against MPC  
3 continues to be disputed and remains an obstacle to a potential resolution of the  
4 cases. MPC filed an action in the Central District on January 14, 2022, seeking  
5 declaratory relief as to coverage of the Receiver and investor claims under the  
6 applicable insurance policies purchased by MPC. The MPC coverage action has  
7 since been transferred to this Court as a related case.

8 **B. Clawback Recoveries**

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

16 **C. Investor Communications**

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

1 pwcg@ethreadvisors.com if their contact information changes and provide their  
2 new contact information.

### 3 **III. SUMMARY OF RECEIPTS AND DISBURSEMENTS**

4 The following table reflects a summary of the receipts and disbursements for  
5 the receivership estate from October 1, 2021, through December 31, 2021:

6 Balance as of 10/01/21	\$6,734,973
7 Policy Maturities	\$0
8 Investor Recoveries	\$0
9 Misc. Income	\$352
10 Disbursements to Receiver/Professionals	(\$56,927)
11 Policy Premium Pmts & Business Asset Expenses	(\$1,769,663)
12 Federal & State Taxes	(\$7,743)
13 Investor Distributions	(\$150,498)
14 Ending Balance as of 12/31/21	\$4,750,494

15  
16  
17 In addition, the Standardized Fund Accounting Report for the receivership  
18 estate for the corresponding time period October 1, 2021, through December 31,  
19 2021, is attached hereto as Exhibit A.

### 20 **IV. RECOMMENDATIONS**

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

#### 24 **D. Document Recovery Efforts**

25 The Receiver has obtained records from MPC, Pacific West Capital Group,  
26 inc., Andrew Calhoun, BroadRiver Asset Management, and financial institutions  
27 where PWCG Trust maintained accounts. As noted above, the Receiver has issued  
28

1 several subpoenas and will issue additional subpoenas as necessary to obtain relevant  
2 documents, assets, and information.

3 **E. 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 **F. 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 **G. Claims and Distributions**

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

19  
20 Dated: January 28, 2022

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

21 By: /s/ Edward G. Fates

22 EDWARD G. FATES  
23 Attorneys for Receiver  
24 THOMAS HEBRANK  
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26  
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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 10/01/21 TO 12/31/21



## STANDARDIZED FUND ACCOUNTING REPORT for PWCG Trust - Cash Basis

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

Reporting Period 10/01/21 to 12/31/21

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 10/01/21):	6,734,973		6,734,973
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	-		-
Line 4 Interest/Dividend Income	352		352
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):	6,735,325		6,735,325
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	(150,498)		(150,498)
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	(56,927)		(56,927)
Line 10b Business Asset Expenses	(1,769,663)		(1,769,663)
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	(7,743)		(7,743)
Total Disbursements for Receivership Operations	(7,743)		(1,834,333)
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):			(1,984,831)
Line 13 Ending Balance (As of 12/31/21):			4,750,494

## STANDARDIZED FUND ACCOUNTING REPORT for PWCG Trust - Cash Basis

Case No. 2:15-cv-02563 FMO (FFMx)  
Reporting Period 10/01/21 to 12/31/21

<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			
Line 14a	Cash & Cash Equivalents			4,750,494
Line 14b	Investments			-
Line 14c	Other Assets or Uncleared Funds			-
	Total Ending Balance of Fund - Net Assets			4,750,494

## 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>		-
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>		-
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>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	-	-
	Total Disbursement to Court/Other Not Paid by the Fund:		-
<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.....		1548
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....		1548

Receiver:

By:

Thomas C. Hebrank

Court-Appointed Receiver

Date:

1/25/22

## PWCG Trust

### Quarterly Operating Report - Financial Summaries

	RR#13	RR#14	RR#15	RR#16
Beginning Cash	43,078,606	17,352,898	9,258,555	6,734,973
<u>Receipts</u>				
Policy Maturities	6,421,073	2,469,853	-	-
Investor Recoveries	167,783	21,000	28,000	-
Interest Income	11,035	7,088	531	352
Miscellaneous - Other	11	-	-	-
Policy Sales	-	-	-	-
Total Receipts	6,599,902	2,497,941	28,531	352
<u>Disbursements</u>				
Disbursements to Receiver/Professionals	-	(253,811)	(117,466)	(56,927)
Business Asset Expenses	(1,614,874)	(1,771,995)	(1,743,320)	(1,769,663)
Investor Distributions	(30,710,736)	(4,872,407)	(691,327)	(150,498)
Litigation Expenses	-	-	-	-
Net Business Asset Expenses	(32,325,610)	(6,898,213)	(2,552,113)	(1,977,087)
Federal and State Tax Payments	-	(3,694,072)	-	(7,743)
Total Disbursements	(32,325,610)	(10,592,285)	(2,552,113)	(1,984,830)
Ending Cash	17,352,898	9,258,555	6,734,973	4,750,494
<u>Bank Statements</u>				
Checking	116,794	45,813	135,028	110,695
PWCG Trust #1	2,904,808	3,972,739	3,050,826	2,170,889
PWCG Trust #2	2,598,393	3,796,458	2,796,544	1,866,613
CD	5,418,254	-	-	-
CBB	-	-	-	-
Western Alliance	6,314,649	1,443,544	752,577	602,297
	17,352,898	9,258,554	6,734,973	4,750,494