

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(ASx)

**RECEIVER'S TWENTIETH
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 Twentieth Interim Report and
 4 Recommendations. This report covers the Receiver's activities during the fourth
 5 quarter of 2022.

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. The Receiver has also
 14 reached a settlement of the receivership estate's claims and the investor class claims
 15 against Mills Potoczak & Company ("MPC"), which settlement is subject to approval
 16 by the Los Angeles Superior Court ("LASC") and this Court. A motion for
 17 preliminary approval of the class settlement has been filed with the LASC. The
 18 Receiver plans to seek approval of the settlement from this Court once approval has
 19 been granted by the LASC.

20 II. SUMMARY OF THE RECEIVER'S WORK

21 The Receiver's primary focus during the fourth quarter was on managing and
 22 servicing the portfolio of Policies, which currently contains a total of 52 active
 23 Policies with death benefits totaling approximately \$108.6 million. In 2021, the
 24 Receiver issued an initial round of interim distribution checks in the aggregate
 25 amount of \$37 million to investors with allowed claims. The Receiver will continue
 26 to closely monitor the performance of the portfolio (as well as recoveries from other
 27 sources) and, pursuant to the Court-approved Distribution Plan, will make further
 28 rounds of interim distributions to investors with allowed claims at such times as

1 when, as a result of policy maturities, cash has accumulated in the receivership estate
2 to allow 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 the LASC.¹ These lawsuits had each been filed
6 by one or more investors, either individually or as a putative class. The Receiver
7 filed notice of the Appointment Order and the litigation stay contained therein in
8 each case and contacted counsel for the other parties. As a result, the litigation stay
9 has been observed by the LASC and the parties in each case.

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

18 The Receiver, through counsel, continued to discuss a possible settlement with
19 MPC and counsel for the putative investor class. MPC attended a mediation with its
20 insurance carriers regarding the carriers' positions as to coverage of the Receiver and
21 investor class claims in November 2021. The Receiver, the putative investor class,
22 MPC, and MPC's insurance carriers then attended a private mediation on January 13,
23 2022.

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

6 In March, the Receiver, the investor class, and MPC reached a settlement in
 7 principle, subject to the settlement being approved by this Court and the Los Angeles
 8 Superior Court. The settlement terms are very favorable, recovering \$9.75 million
 9 out of the \$10 million in available insurance coverage. After the settlement had been
 10 documented, one of the class representatives in the state court actions initially
 11 refused to sign the Settlement Agreement (which had been signed by all other
 12 parties), which delayed the process of seeking Court approval. This issue was
 13 brought to the attention of the LASC and subsequently resolved. As noted above, a
 14 motion has been filed in the LASC for preliminary approval of the class settlement.
 15 The motion was originally set for hearing on November 22, 2022, but the hearing
 16 was subsequently continued to March 28, 2023. The Receiver plans to seek approval
 17 of the settlement from this Court once approval has been granted by the LASC.

18 **B. Investor Communications**

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

and creditors should promptly contact the Receiver's office at pwcg@ethreadvisors.com if their contact information changes and provide their 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 October 1, 2022, through December 31, 2022:

Balance as of 10/01/22	\$3,800,349
Policy Maturities	\$0
Investor Recoveries	\$0
Misc. Income	\$1,208
Disbursements to Receiver/Professionals	\$237,935
Policy Premium Pmts & Business Asset Expenses	(\$1,913,442)
Federal & State Taxes	\$0
Investor Distributions	(\$8,280)
Ending Balance as of 12/31/22	\$1,641,900

In addition, the Standardized Fund Accounting Report for the receivership estate for the corresponding time period October 1, 2022, through December 31, 2022, is attached hereto as Exhibit A. It should be noted that another \$2,000,000 in death benefits from policy maturities has been received since January 1, 2023, with another \$750,000 expected to be received soon.

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.

1 **C. Document Recovery Efforts**

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

7 **D. Provide Reports to the Court on a Quarterly Basis**

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

10 **E. MPC Litigation**

11 As noted above, the Receiver, the investor class, and MPC have reached a
12 settlement, subject to approval by this Court and the LASC. The Receiver plans to
13 seek approval of the settlement from this Court once preliminary approval has been
14 granted by the LASC.

15 **F. Claims and Distributions**

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

23
24 Dated: February 21, 2023

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

25 By: /s/ Edward G. Fates

26 EDWARD G. FATES
27 Attorneys for Receiver
28 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 10/01/22 TO 12/31/22

STANDARDIZED FUND ACCOUNTING REPORT for PWC Trust - Cash Basis

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

Reporting Period 10/01/22 to 12/31/22

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 10/01/22):	3,800,349		3,800,349
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	-		-
Line 4 Interest/Dividend Income	1,208		1,208
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):	3,801,557		3,801,557
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	(8,280)		(8,280)
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	(237,935)		(237,935)
Line 10b Business Asset Expenses	(1,913,442)		(1,913,442)
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	-		(2,151,377)
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):			(2,159,657)
Line 13 Ending Balance (As of 12/31/21):			1,641,900

STANDARDIZED FUND ACCOUNTING REPORT for PWCG Trust - Cash Basis

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

Reporting Period 10/01/22 to 12/31/22

Line 14 Ending Balance of Fund - Net Assets:			
Line 14a Cash & Cash Equivalents			1,641,900
Line 14b Investments			-
Line 14c Other Assets or Uncleared Funds			-
Total Ending Balance of Fund - Net Assets			1,641,900

OTHER SUPPLEMENTAL INFORMATION:			
	Detail	Subtotal	Grand Total
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.....			1,548
Line 19b # of Claimants/Investors Paid Since Inception of Fund.....			1,548

Receiver:

By:

Thomas C. Hebrank

Court-Appointed Receiver

Date:

2/2/23

PWCG Trust

Quarterly Operating Report - Financial Summaries

	RR#17 03/31/22	RR#18 06/30/22	RR#19 09/30/22	RR#20 12/31/22
Beginning Cash	4,750,494	4,894,224	2,997,673	3,800,349
<u>Receipts</u>				
Policy Maturities	2,014,712	304,225	2,540,962	-
Investor Recoveries	-	-	-	-
Interest Income	280	353	562	1,208
Miscellaneous - Other	-	2,202	-	-
Policy Sales	-	-	-	-
Total Receipts	2,014,992	306,780	2,541,524	1,208
<u>Disbursements</u>				
Disbursements to Receiver/Professionals	-	(127,886)	-	(237,935)
Business Asset Expenses	(1,857,459)	(2,000,462)	(1,718,147)	(1,913,442)
Investor Distributions	(13,802)	(39,984)	(20,700)	(8,280)
Litigation Expenses	-	-	-	-
Net Business Asset Expenses	(1,871,262)	(2,168,332)	(1,738,847)	(2,159,657)
Federal and State Tax Payments	-	(35,000)	-	-
Total Disbursements	(1,871,262)	(2,203,332)	(1,738,847)	(2,159,657)
Ending Cash	4,894,224	2,997,673	3,800,349	1,641,900
<u>Bank Statements</u>				
Checking	88,235	69,888	101,742	95,365
PWCG Trust #1	1,941,629	1,088,076	2,079,094	674,126
PWCG Trust #2	2,275,698	1,290,761	1,090,789	350,812
CD	-	-	-	-
CBB	-	-	-	-
Western Alliance	588,661	548,947	528,724	521,597
	4,894,224	2,997,672	3,800,349	1,641,900