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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(ASx)

**RECEIVER'S TWENTY-THIRD  
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 Twenty-Third Interim Report and  
4 Recommendations. This report covers the Receiver's activities during the third  
5 quarter of 2023.

## 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 has been approved  
16 by the Los Angeles Superior Court ("LASC"), and more recently by this Court as  
17 well.

## 18 II. SUMMARY OF THE RECEIVER'S WORK AND POLICIES

### 19 A. The Status of the Policies.

20 The Receiver's primary focus during the second quarter was on managing and  
21 servicing the portfolio of Policies, which currently contains a total of 48 active  
22 Policies with death benefits totaling approximately \$97.9 million. In 2018, it looked  
23 as though the Receiver would need to borrow against the portfolio to cover Policy  
24 premiums until sufficient death benefits were received from Policy maturities to  
25 make interim distributions. Fortunately that turned out not be the case, and not only  
26 did the Receiver not have to borrow (or incur any costs associated therewith), but in  
27 2021, the Receiver was able to issue an initial round of interim distribution checks in  
28

1 the aggregate amount of \$37 million to investors with allowed claims.<sup>1</sup> This interim  
2 distribution reduced the total allowed investor net loss claims in the receivership  
3 from approximately \$106 million to approximately \$69 million.

4 The Receiver obtained updated medical records and life expectancy report  
5 ("LE Reports") on each of the insureds from 21<sup>st</sup> in September 2023. The data  
6 obtained to date indicates that the recovery for investors will be substantially greater  
7 if the Receiver continues to hold the Policies until maturity as opposed to selling  
8 them in the near term. The recently updated LE Reports and projections indicate that  
9 the total net recovery from the portfolio (after all Policies have matured) could be in  
10 the range of \$64 million (not including the \$37 million already distributed or the  
11 MPC settlement funds discussed below). That would mean that, factoring the  
12 upcoming distribution of MPC settlement funds, it is possible that the net recovery  
13 from the remaining portfolio may be sufficient to pay investor claims in full,  
14 although it is projected to take until 2032 to achieve that result.

15 It should be noted that the projected net recovery from the portfolio has  
16 decreased since LE reports and cash flow projections were last obtained. This results  
17 primarily from the fact that there are now about a dozen Policies that have gone  
18 significantly past their prior projected maturity dates, meaning it has taken (and will  
19 take) longer to receive the death benefits from those Policies and has required (and  
20 for some time, will require) more premium payments to keep the Policies in good  
21 standing than previously anticipated. This has not changed the Receiver's overall  
22 recommendation, however, which is that continuing to hold the Policies until  
23 maturity will produce a substantially greater recovery than selling them in the short  
24 term.

25  
26  
27  
28 <sup>1</sup> The Receiver believes the fact that certain policies matured earlier than projected,  
making borrowing unnecessary and a first interim distribution possible earlier  
than expected, was due primarily to the COVID-19 pandemic.

1 The Receiver will continue to closely monitor the performance of the  
 2 portfolio, including a periodic evaluation of whether it is best to hold or sell the  
 3 remaining Policies. Pursuant to the Court-approved Distribution Plan, the Receiver  
 4 will make further rounds of interim distributions to investors with allowed claims at  
 5 such times as when, as a result of Policy maturities, cash has accumulated in the  
 6 receivership estate to allow the Receiver to safely make such distributions.

7 **B. MPC Settlement**

8 At the time of the Receiver's appointment, PWCG Trust had been named as a  
 9 defendant in four lawsuits pending in the LASC.<sup>2</sup> These lawsuits had each been filed  
 10 by one or more investors, either individually or as a putative class. The Receiver  
 11 filed notice of the Appointment Order and the litigation stay contained therein in  
 12 each case and contacted counsel for the other parties. As a result, the litigation stay  
 13 has been observed by the LASC and the parties in each case.

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

22 The Receiver, through counsel, continued to discuss a possible settlement with  
 23 MPC and counsel for the putative investor class. MPC attended a mediation with its  
 24 insurance carriers regarding the carriers' positions as to coverage of the Receiver and  
 25 investor class claims in November 2021. The Receiver, the putative investor class,  
 26

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27 <sup>2</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 MPC, and MPC's insurance carriers then attended a private mediation on January 13,  
2 2022.

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

10 In March 2022, the Receiver, the investor class, and MPC reached a settlement  
11 in principle, subject to the settlement being approved by this Court and the LASC.  
12 The settlement terms are very favorable, recovering \$9.75 million out of the  
13 \$10 million in available insurance coverage. Preliminary approval of the settlement  
14 was granted by the LASC in March and final approval was granted on August 31,  
15 2023. This Court then approved the settlement on October 17, 2023. Dkt. 586. The  
16 Receiver anticipates making a distribution of the net settlement funds (after payment  
17 of approved fees for class counsel (\$1,462,500) and approved service awards for  
18 class representatives (\$30,000)), which amount totals \$8,257,500, in the next 30-40  
19 days.

### 20 C. Investor Communications

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

orders of the Court. Investors and creditors can sign up at the webpage to receive monthly email updates about the case. To ensure receipt of future notices, investors and creditors should promptly contact the Receiver's office at pwceg@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 July 1, 2023, through September 30, 2023:

Balance as of 07/01/23	\$2,520,889
Policy Maturities	\$4,822,704
Misc. Income	\$3,290
Disbursements to Receiver/Professionals	(\$65,636)
Policy Premium Pmts & Business Asset Expenses	(\$1,913,287)
Federal & State Taxes	\$0
Investor Distributions	(\$50,026)
Ending Balance as of 09/30/23	\$5,317,934

In addition, the Standardized Fund Accounting Report for the receivership estate for the corresponding time period of July 1, 2023, through September 30, 2023, 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.

#### A. Life Expectancy and Cash Flow Analysis

The Receiver with the assistance of 21<sup>st</sup> will continue to monitor the portfolio and evaluate the benefits of holding versus selling the Policies.

1           **B.     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           **C.     MPC Settlement**

5           As noted above, the Receiver plans to make of distribution of the net  
6 settlement funds to the investor class members in the next 30-40 days.

7           **D.     Future Distributions**

8           As discussed above, the Receiver will continue to closely monitor the  
9 performance of the portfolio and, pursuant to the Court-approved Distribution Plan,  
10 will make further rounds of interim distributions to investors with allowed claims at  
11 such times as when, as a result of Policy maturities, cash has accumulated in the  
12 receivership estate such that the Receiver can safely make such distributions.

13  
14 Dated: November 14, 2023

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

15  
16 By:           /s/ Edward G. Fates

17 EDWARD G. FATES  
18 Attorneys for Receiver  
19 THOMAS HEBRANK  
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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 07/01/23 TO 09/30/23

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

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

Reporting Period 07/01/23 to 09/30/23

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 07/01/23):	2,520,889		2,520,889
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	4,822,704		4,822,704
Line 4 Interest/Dividend Income	1,800		1,800
Line 5 Business Asset Liquidation	-		-
Line 6 Personal Asset Liquidation			-
Line 7 Third-Party Litigation Income	1,490		1,490
Line 8 Misc - Insurance & Prop Tax Refunds	-		-
Total Funds Available (Lines 1 - 8):	7,346,883		7,346,883
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	(50,026)		(50,026)
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	(65,636)		(65,636)
Line 10b Business Asset Expenses	(1,913,287)		(1,913,287)
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	-		(1,978,923)
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):			(2,028,949)
Line 13 Ending Balance (As of 09/30/23):			5,317,934

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

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

Reporting Period 07/01/23 to 09/30/23

<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			
Line 14a	Cash & Cash Equivalents			5,317,934
Line 14b	Investments			-
Line 14c	Other Assets or Uncleared Funds			-
	<b>Total Ending Balance of Fund - Net Assets</b>			<b>5,317,934</b>

## 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>		<b>-</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>		<b>-</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>-</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	-	-
	<b>Total Disbursement to Court/Other Not Paid by the Fund:</b>		<b>-</b>
<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.....		1,548
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....		1,548

Receiver:

By:

Thomas C. Hebrank

Court-Appointed Receiver

Date:

11/14/23

## PWCG Trust

### Quarterly Operating Report - Financial Summaries

	RR#21 03/31/23	RR#22 06/30/23	RR#23 09/30/23
Beginning Cash	1,641,900	2,240,922	2,520,889
<u>Receipts</u>			
Policy Maturities	2,762,970	2,515,216	4,822,704
Investor Recoveries	-	-	-
Interest Income	1,555	1,788	1,800
Miscellaneous - Other	-	-	1,490
Policy Sales	-	-	-
Total Receipts	2,764,525	2,517,004	4,825,994
<u>Disbursements</u>			
Disbursements to Receiver/Professionals	(71,477)	(47,656)	(65,636)
Business Asset Expenses	(2,094,027)	(2,166,573)	(1,913,286)
Investor Distributions	-	(22,809)	(50,026)
Litigation Expenses	-	-	-
Net Business Asset Expenses	(2,165,503)	(2,237,037)	(2,028,949)
Federal and State Tax Payments	-	-	-
Total Disbursements	(2,165,503)	(2,237,037)	(2,028,949)
Ending Cash	2,240,922	2,520,889	5,317,934
<u>Bank Statements</u>			
Checking	129,884	135,666	158,233
PWCG Trust #1	885,657	310,669	2,383,741
PWCG Trust #2	702,293	1,572,532	2,322,245
CD	-	-	-
CBB	-	-	-
Western Alliance	523,088	502,022	453,714
	2,240,922	2,520,889	5,317,934