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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-FMO (FFMx)

**RECEIVER'S FIFTH INTERIM  
REPORT AND  
RECOMMENDATIONS**

Ctrm.: 6D  
Judge: Hon. Fernando M. Olguin

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 Fifth Interim Report and  
 4 Recommendations. This report covers the time period from January 1, 2019, through  
 5 March 31, 2019.

## 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. As  
 10 discussed further below, pursuant to the Court's December 7, 2018 order approving  
 11 the Receiver's proposal to pool the cash reserves and death benefits, pay Policy  
 12 premiums from the pooled funds, and sell or surrender of Negative Value Policies  
 13 ("December 7, 2018 Order"), the Receiver has sold 14 Negative Value Policies for a  
 14 total of \$1,106,861.

15 The Receiver has also been in contact with several prospective lenders  
 16 regarding a line of credit to provide additional funding needed to cover projected  
 17 premiums for the portfolio. Several prospective lenders have signed confidentiality  
 18 agreements with the Receiver and are in the process of analyzing data on the  
 19 portfolio and formulating proposals. The Receiver will negotiate terms with these  
 20 prospective lenders in the hope of seeking Court approval of a proposed credit  
 21 facility. Finally, the Receiver, with the assistance of ITM Twentyfirst ("21st"), has  
 22 continued to make all required premium payments to keep the Policies in force, and  
 23 has tracked and collected death benefits from Policy maturities.

## 24 II. SUMMARY OF RECEIVER'S WORK

25 The Receiver's focus during the first quarter was on implementing the  
 26 December 7, 2018 Order. This included working with 21st to market the  
 27 34 Negative Value Policies identified in the Receiver's proposal to potentially  
 28 interested parties in the life settlements industry. To date, the Receiver completed a

1 sale of 14 Negative Value Policies for a purchase price of \$1,106,861. The death  
2 benefits associated with these Policies totaled approximately \$33.7 million.

3 Having marketed the Negative Value Policies to the most likely purchasers in  
4 the industry, and with large premium payments due, the Receiver determined to  
5 allow 13 Negative Value Policies to lapse, thereby reducing the drain on cash flow  
6 associated with these Policies. The death benefits associated with these Negative  
7 Value Policies totaled approximately \$23 million.

8 Most of the original 34 Negative Value Policies were lacking recent medical  
9 records for the insureds at the time the December 7, 2018 Order was entered. Once  
10 more recent medical records were obtained for these Policies and an updated life  
11 expectancy report ("LE Report") was completed, some of the Policies were  
12 determined to have positive value based on the death benefits and projected premium  
13 payments until maturity. Accordingly, these Policies were removed from the  
14 Negative Value Policy list and added to the general list of active Policies in the  
15 portfolio.

16 With respect to maturities, a total of ten Policies have matured since the  
17 Receiver's appointment. The death benefits associated with these Policies total  
18 approximately \$12 million, including \$5.5 million from a maturity in April 2019 that  
19 the Receiver expects to receive in the next 60 days. After subtracting the Negative  
20 Value Policies that were sold and lapsed/surrendered, as well as the Policies that  
21 have matured, the portfolio now contains a total of 84 Policies with death benefits  
22 totaling approximately \$169 million.

23 Throughout this period, the Receiver also worked to gather and analyze  
24 documents and records important for his accounting and analysis of receivership  
25 estate assets. It should be noted that the Receiver's accounting and document  
26 analysis will ultimately be key to establishing the allowed amount of each investor's  
27 claim and a plan for distribution of receivership assets.

28

### III. PENDING LITIGATION

1  
2 At the time of the Receiver's appointment, PWCG Trust had been named as a  
3 defendant in four lawsuits pending in Superior Court in Los Angeles. These lawsuits  
4 had each been filed by one or more investors, either individually or as a putative  
5 class. The Receiver filed notice of the Appointment Order and the litigation stay  
6 contained therein in each case and also contacted counsel for the other parties. As a  
7 result, the litigation stay has been observed by the state court and the parties in each  
8 case. The Superior Court has held several case management conferences in an effort  
9 to determine whether the cases can proceed against the other defendants in light of  
10 the stay of all claims as to PWCG Trust. At present, each of the lawsuits have been  
11 stayed subject to review by the state courts in the coming months.

12 The Receiver has also been in communication with the investor plaintiffs,  
13 through their counsel, about the claims involved in the pending cases, potential  
14 claims against third parties the Receiver is analyzing/evaluating, including potential  
15 claims against Mills Potoczak & Company ("MPC"), and the most cost-efficient way  
16 to pursue such claims. The Receiver and MPC have signed a tolling agreement as to  
17 all statutes of limitations and other time-based defenses to such potential claims.

### IV. TAX ISSUES

18  
19 With the assistance of counsel, the Receiver has been evaluating the proper  
20 treatment and tax return filings for PWCG Trust for 2018. The appointment of the  
21 Receiver over PWCG Trust and creation of the receivership estate covering its assets  
22 will likely result in significant changes to the entity's tax returns under the Internal  
23 Revenue Code and related regulations. In many receiverships of this nature, the  
24 receivership estate is treated as a "Qualified Settlement Fund" for tax purposes. For  
25 now, the Receiver has filed for an extension of PWCG Trust's 2018 tax returns such  
26 that his evaluation of these issues can be completed.

27

28

## V. INVESTOR COMMUNICATIONS

The Receiver has established a dedicated web page on his website which is being used to provide case information, regular updates, and answers to frequently asked questions to investors and creditors. The Internet address for the webpage is as follows: <http://www.ethreadvisors.com/cases/pwcg/>. The Receiver mailed a letter to all investors in the week following his appointment to inform them of the receivership and direct them to the website to obtain further notices and updates. The Receiver has posted the Appointment Order and other filings relating to the 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 date, a total of 817 investors have signed up to receive such updates. To ensure receipt of future notices, investors and creditors should promptly contact the Receiver's office at [pwcg@ethreadvisors.com](mailto:pwcg@ethreadvisors.com) if their contact information changes and provide their new contact information.

## VI. SUMMARY OF RECEIPTS AND DISBURSEMENTS

The following table reflects a summary of the receipts and disbursements for the receivership estate from January 1, 2019, through March 31, 2019:

Balance as of 1/1/19	\$5,457,403
Policy Maturities	\$1,332,296
Sales of Negative Value Policies	\$850,000 <sup>1</sup>
Misc. Income	\$499
Policy Premium Pmts & Business Asset Expenses	(\$1,808,575)
Disbursements to Receiver & Professionals	(\$80,615)
Ending Balance as of 3/31/19	\$5,751,008

<sup>1</sup> An additional \$256,861 was received from sales of Negative Value Policies since the end of the first quarter, for a total of \$1,106,861.

1 In addition, the Standardized Fund Accounting Report for the receivership  
 2 estate for the time period January 1, 2019, through March 31, 2019, is attached  
 3 hereto as Exhibit A.

## 4 **VII. RECOMMENDATIONS**

5 The Receiver's efforts to investigate and analyze assets, gather records, and  
 6 analyze potential claims against third parties are ongoing. The Receiver and his  
 7 professionals make the following recommendations.

### 8 **A. Document Recovery Efforts**

9 The Receiver has obtained records from MPC, Pacific West, Calhoun,  
 10 BroadRiver, and financial institutions where PWCG Trust maintained accounts. As  
 11 noted above, the Receiver has issued several subpoenas and will issue additional  
 12 subpoenas as necessary to obtain relevant documents, assets, and information. It  
 13 may also be necessary to take the depositions of certain individuals to obtain critical  
 14 information.

### 15 **B. Receivership Asset Recovery Efforts and Investigation**

16 The Receiver will continue efforts to locate any presently unaccounted for  
 17 receivership assets that may exist and to pursue any improper transfers to third  
 18 parties. The Receiver will take appropriate steps to secure such assets and preserve  
 19 their value.

### 20 **C. Accounting**

21 Once the Receiver has obtained bank records and records held by third parties,  
 22 the Receiver will complete his accounting to establish the sources and uses of funds  
 23 by PWCG Trust, determine the proper amount of investor and creditor claims, and  
 24 identify potential improper transfers to third parties.

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

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

28

1           **E.     Claims Review and Distribution Plan**

2           As the receivership progresses, the Receiver will formulate and seek approval  
3 of procedures for receiving and verifying investor and creditor claims, as well as the  
4 equitable and efficient manner of distributing assets to those with valid claims. At  
5 the appropriate time, the Receiver will seek Court approval of procedures for  
6 determining claims and a plan of distribution.

7  
8 Dated: May 22, 2019

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

9  
10 By:           /s/ Edward G. Fates

EDWARD G. FATES  
Attorneys for Receiver  
THOMAS HEBRANK

# **EXHIBIT A**



Thomas C. Hebrank, Receiver  
E3 Advisors  
401 West A Street, Suite 1830  
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 01/01/19 TO 03/31/19

Reporting Period 01/01/19 to 03/31/19

FUND ACCOUNTING (See instructions):			
	Detail	Subtotal	Grand Total
Line 1 Beginning Balance (As of 01/01/19):	5,457,403		5,457,403
<i>Increases in Fund Balance:</i>			
Line 2 Business Income			-
Line 3 Policy Maturities	1,332,296		1,332,296
Line 4 Interest/Dividend Income	370		370
Line 5 Business Asset Liquidation	850,000		850,000
Line 6 Personal Asset Liquidation			-
Line 7 Third-Party Litigation Income			-
Line 8 Misc - Insurance & Prop Tax Refunds	129		129
Total Funds Available (Lines 1 - 8):	7,640,198		7,640,198
<i>Decreases in Fund Balance:</i>			
Line 9 Disbursements to Investors	-		-
Line 10 Disbursements to Receivership Operations			
Line 10a Disbursement to Receiver or Other Professionals	(80,615)		(80,615)
Line 10b Business Asset Expenses	(1,808,575)		(1,808,575)
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			(1,889,190)
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):			(1,889,190)
Line 13 Ending Balance (As of 03/31/2019):			5,751,008



Reporting Period 01/01/19 to 03/31/19

<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			
Line 14a	Cash & Cash Equivalents			5,751,008
Line 14b	Investments			-
Line 14c	Other Assets or Uncleared Funds			-
	Total Ending Balance of Fund - Net Assets			5,751,008

OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
<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.....			0
Line 18b	# of Claims Received Since Inception of Fund.....			0
<b>Line 19</b>	<b>No. of Claimants/Investors:</b>			
Line 19a	# of Claimants/Investors Paid this Reporting Period.....			0
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....			0

Receiver:

By:

Thomas C. Hebrank

Court-Appointed Receiver

Date:

5/13/19