

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION**

UNITED STATES SECURITIES AND)	
EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 1:09-cv-1330
SEAN NATHAN HEALY)	
)	Judge Conner
Defendant,)	
)	
and)	
)	
SHALESE HEALY and)	
SAND DOLLAR INVESTING PARTNERS,)	
LLC)	
)	
Relief Defendants.)	
_____)	

RECEIVER’S SECOND REPORT

Pursuant to paragraphs 35 and 36 of the Court’s July 13, 2009 Temporary Restraining Order (“TRO”) [D.E. 12]¹, Melanie E. Damian, Esq., the court-appointed receiver (the “Receiver”) in the above-captioned matter, hereby submits the Receiver’s Second Report regarding the present status of the Estate of Sean Nathan Healy (the “Estate”).

¹ The TRO was modified by the Court’s January 20, 2009 Preliminary Injunction [D.E. 21]. None of the modifications therein are pertinent to the issues herein.

I. SUMMARY OF OPERATIONS OF THE RECEIVER

This Second Report is an update to the Receiver's Initial Report (the "Initial Report") [D.E. 29] dated July 30, 2009. Since that filing the Receiver has continued to execute her charge to accumulate, maintain and preserve Estate assets, as set forth in detail below. The Receiver has maintained a close working relationship with the offices of the US Securities and Exchange Commission ("SEC") and the US Commodities Futures Trading Commission ("CFTC"). It is through their investigations that the Receiver was provided a foundational understanding of how Mr. Healy's fraud worked, how the investor money flowed into the Healy bank accounts and where those investor funds were either spent or squandered. In addition, the Receiver has either reached out to or has been contacted by many of the attorneys for aggrieved Healy investors for the exchange of information and documents. As such, in a case against the Healys that predates the instant one, aggrieved Healy investors filed suit against Sean and Shalese in March of 2009 in U.S. District Court for the Southern District of Florida, in a case styled *Alfred L. Madeira, et. al. v. Sean Healy, et. al.*, S.D. Fla., Case No. 0:09-cv-60403-JEM (J. Martinez) (the "*Madeira Case*"). The Receiver filed her Motion to Intervene in the *Madeira Case* on August 7, 2009 [Case No. 0:09-cv-60403, D.E. 101] which the *Madeira Court* granted on August 12,

2009 [Case No. 0:09-cv-60403, D.E. 104]. Through the course of that litigation and the discovery process therein, attorneys in the *Madeira* Case were able to provide the Receiver with information that has aided the Receiver in her capacity to marshal and account for estate assets. The parties continue to work together to efficiently gather assets and liquidate the estate, and are in discussions regarding an appropriate distribution plan.

The course of the Receivership changed, marginally, on November 18, 2009 when Mr. Healy entered into a plea agreement in his criminal case styled *USA v. Sean Healy*, M.D. Pa., Case No. 1:09-cr-00319-SHR-1 (the “Healy Criminal Case”). In that agreement, Mr. Healy pled guilty to two count of wire fraud and one count of engaging in unlawful monetary transactions. [Case No. 1:09-cr-00319, D.E. 21].² Prior to the entry of that plea, Mr. Healy, through his attorney(s) actively litigated a defense to the instant matter and the *Madeira* Case. Commencing in the early fall and certainly after his November 18, 2009 plea, Mr. Healy ceased contesting

² Pursuant to the Healy criminal Court’s November 23, 2009 order permitting Mr. Healy to withdraw his plea of not guilty, Mr. Healy’s sentencing was deferred pending the Court’s receipt of the persistence report. Mr. Healy awaits sentencing in custody in the Middle District of Pennsylvania. Mr. Healy was initially allowed “house arrest” by the court in the Healy Criminal Case to live with his mother and step-father at their residence in Boca Raton Florida pending sentencing. Mr. Healy violated his pre-trial release conditions by utilizing narcotics. Mr. Healy was remanded into custody and his conditions of release were officially revoked. [Case No. 1:09-cr-00319, D.E. 39]

liability. As such, Plaintiffs in the *Madeira* Case were able to secure default judgments against Sean and Shalese Healy jointly and severally as follows:

- i) Plaintiff Madeira: compensatory damages \$10,997,000 and punitive damages \$36,012,549 [Case No. 0:09-cv-60403, D.E. 154];
- ii) Plaintiffs Wagner and Jarboe: compensatory damages \$3,291,400 [Case No. 0:09-cv-60403, D.E. 147]; and
- iii) Plaintiff Ricker: compensatory damages \$400,000 and punitive damages \$1,200,000 [Case No. 0:09-cv-60403, D.E. 155]

On December 24, 2009, in the Healy Criminal Case, the United States filed its *Motion for Preliminary Order of Forfeiture* [Case No. 1:09-cr-00319, D.E. 35] seeking in essence forfeiture of all of the assets currently in the Receiver's possession, custody and control. On December 28, 2009, the Healy Criminal Case Court entered its *Preliminary Order of Forfeiture* [Case No. 1:09-cr-00319, D.E. 36]. Therein, the Court ordered that:

1. As a result of the guilty plea to the Indictment entered by defendant, in which the Government sought forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)(c) and 982(a)(1) and 28 U.S.C. § 2461, the defendant shall forfeit to the United States:

(a) All property involved in or traceable to offenses involving 18 U.S.C. §§ 1343, 1957, and 2;

(b) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained directly or indirectly, as a result of such violations involving such offenses; and

(c) Any property, real or personal, used or intended to be used in any manner or part to commit or facilitate the commission of the offenses involving 18 U.S.C. §§ 1343, 1957, and 2.

2. The Court has determined, based upon the defendant's guilty plea, that the following property is subject to forfeiture and that the government has established the requisite nexus between such property and such offenses.

a) All property, real and personal, listed in Counts 54 and 55 and itemized in Exhibit A.

[Case No. 1:09-cr-00319, D.E. 36 at ¶¶1-2].

A. The Bank Account and Asset Location Investigation

In connection with her charge to find and marshal the Estate assets, the Receiver and her team has served seventy (70) subpoenas requesting Estate asset location documentation. The returned documentation has been reviewed, analyzed and followed up on where necessary. In addition, the source documents provided to the Receiver have been delivered to the Receiver's forensic accountants for analysis as described below.

B. The Forensic Accounting

In order to assist the Receiver in the investigation of estate assets and the tracing of money flows, the Receiver filed her September 3, 2009 application to employ Kauffman, Rossin & Co. as her forensic accountants (the "Forensic Accountants") [D.E. 38] which was granted by the Court on January 8, 2009 [D.E. 40]. Since that time the Receiver has been working

closely with the Forensic Accountants to determine the inflows and outflows from the banks utilized by Mr. Healy. Fortuitously, the Receiver has been able to determine with reasonable certainty the flow of funds so that the parties and aggrieved investors are in a good position to determine investor loss and shortly present a distribution plan.

C. Other Marshalling of Assets

In connection with her obligation to marshal assets for the Estate, the Receiver has subpoenaed documents from all of the attorneys known to have been engaged by Sean and Shalese Healy. To the extent that these attorneys held moneys in trust for the Healys, the funds were demanded returned. These attorneys include: i) Roy Oppenheim of Oppenheim & Pilesky, P.A.; ii) Richard Bales, Esq. of Bales & Sommer, P.A.; iii) Alan Ross, Esq. of Robbins, Tunkey, Ross et. al.; iv) Isaac Mitrani, Esq. of Mitrani, Rynor, Adamsky & Toland, P.A.; v) Jeffrey Cox, Esq. of Sallah & Cox, LLC; and vi) William Costopoulos, Esq. of Costopoulos, Foster & Fields. With Regards, to Mr. Ross, the Receiver was able to obtain the return to the Estate of \$175,000 of investor funds held in Mr. Ross' trust account for the benefit of Mr. Healy. Mr. Cox returned to the Receiver \$5,000 which he held in trust for Mr. Healy. The Receiver is currently in settlement negotiations with Mr. Costopoulos. All of the other attorneys set forth above have

provided sufficient documents and information that have allowed the Receiver to conclude that these entities do not have recoverable Estate assets.

On October 29, 2009, the Receiver filed a fraudulent transfer action against Mr. Healy's country club seeking the return of the initiation fee and certain prepaid membership fees in a case styled *Melanie E. Damian, as Receiver for the Estate of Sean Nathan Healy, v. WHCC, LLC, d/b/a Weston Hills Country Club*, U.S. District Court S.D.Fla, Case No: 0:09-cv-61731-JAL [Case No: 0:09-cv-61731, D.E. 1]. The Defendant answered the Complaint of November 18, 2009 denying liability [Case No: 0:09-cv-61731, D.E. 4]. The parties are in the process of preparing their Rule 26 disclosures. The parties have agreed to a pre-discovery mediation and are attempting to finalize the date. The Receiver anticipates the mediation will occur before the conclusion of February.

II. THE AMOUNT OF CASH ON HAND

The Receiver reports the following cash on hand: \$415,247.59, which is currently held at Gibraltar Private Bank & Trust.

III. SCHEDULE OF THE RECEIVER'S RECEIPTS AND DISBURSEMENTS

Attached hereto as **Exhibit "A"** is a schedule of the Receiver's cost disbursements as required to be filed by paragraph 36 of the TRO [D.E. 12].

IV. DESCRIPTION OF ALL KNOWN RECEIVERSHIP PROPERTY

A. THE RESIDENCE

Pursuant to the Court's initial TRO and Preliminary Injunction, the Receiver was granted possession of the Riviera Manor Property with the Healys having the right to reside at the premises until further Court order. When it became apparent to the Receiver that the Healys had no good faith defenses to the Complaint and the expense to maintain the Property with the Healys in residence was cost prohibitive, the Receiver filed her September 4, 2009 *Motion for an Order Providing the Receiver with Sole Possession of the Riviera Manor Property* [D.E. 39] which was aggressively opposed by the Healys' *Brief in Opposition to Motion for an Order Providing the Receiver with Sole Possession of the Riviera Manor Property* [D.E.46]. On October 21, 2009, the Court entered its Order granting the Receiver's Motion, in part, and ordered that the Healys vacate the residence by November 30, 2009. This date was further extended by the Court to December 4, 2009 upon which day Mrs. Healy removed the personal effects from the home and relinquished the keys. On that date, the Receiver: i) changed all of the locks to all exterior doors; and ii) contracted with ADT (home security monitoring) to change the home window and door electronic surveillance to the Receiver's name and exclusive control. The Court's

October 21, 2009 Order also authorized the Receiver to begin marketing the residence for resale. Thereafter, in anticipation of placing the home on the market for resale, the Receiver, through the help of hired cleaning personnel: i) scrubbed the interior of the home; ii) cleaned the pool; and iii) performed routine lawn and yard maintenance. The Riviera Manor Property is now in a position to be shown to prospective purchasers.

In connection with selling the residence, the Receiver has interviewed a number of real-estate brokers and agents knowledgeable of the Weston, Florida real estate market and the sale of luxury homes in South Florida. In that regard, the Receiver identified the Marina Realty Group, a realty firm with approximately 30 years experience in selling luxury homes in South Florida, as the realtor/broker that would work best with the Receiver in marketing the property and facilitating the Estate's receiving the highest and best offer for its resale. The Receiver provided the various counsel for the investors and counsel to the SEC and CFTC with the proposal, including a statement of its experience and marketing strategy and the proposed Listing Agreement, submitted by the Marina Realty Group, and invited interested counsel and the investors to interview the principal of that realty firm to verify her and her firm's qualifications. Counsel to the investors, and, in particular, the investor with extensive real estate sales experience who was

selected by the others to monitor the selection of a realtor and assist the Receiver throughout the process of the marketing and sale of the residence, along with counsel for the SEC and the CFTC, have all consented the Receiver's entering into the Listing Agreement with the Marina Realty Group. Accordingly, the Receiver has signed the Listing Agreement and the property is now actively being marketed for sale. When the Receiver obtains a reasonable offer to purchase the property, the Receiver will consult with the investors and their counsel and, if the consensus is that the offer is for fair market value, the Receiver will present the purchase agreement to the Court for approval.

B. THE LUXURY VEHICLES

The Receiver is currently in possession of the following luxury vehicles, which are being stored at the warehouse of which the Receiver took over the Healys' lease and is now renting the space on a month-to-month basis until the vehicles are sold:

- 2008 Silver and Pink Lamborghini Gallardo Convertible (VIN ZHWGU22T58LA06581);
- 2006 Yellow Lamborghini Murcielago Convertible (VIN ZHWBU26S46LA01879);
- 2007 Red Ferrari F430 Spyder (VIN ZFFEW59A570154292);
- 2007 Black Bentley GT Convertible (VIN SCBDR33W57C050378);
- 1991 Black Porsche 911 Turbo (VIN WPOAA2965MS480129);
- 2003 Black Porsche 911 Turbo (VIN WP0AB29983S686390);

2007 Black Lincoln Town Car Stretch Limousine (VIN 1L1FM88W977632915);³
2009 Black Chevrolet Suburban (VIN 1GNFC36J99J125824); and
2009 Hummer-design golf-cart

These vehicles are currently insured for replacement value by the Receiver through Fireman's Fund Insurance Company and Progressive Insurance Company. In addition, the vehicles are being maintained in accordance with the recommendations of mechanics and specialists who regularly service and maintain similar luxury and exotic vehicles. In that regard, the vehicles are started and run for a limited amount of time every 2-3 weeks.

On September 24, 2009, the Receiver filed her Motion for Order Establishing Bidding Procedures and Approving the Sales of Vehicles [D.E. 48], which was approved by the Court on December 11, 2009 [D.E. 77]. That Order sets forth the bidding procedures for the auction. The vehicle auction is currently scheduled for February 3, 2009 and is being advertised in the New York Times. The Receiver is also advertising the sale of the vehicles through The Ultimate Marketplace, a comprehensive online marketplace that utilizes professionals to actively market the vehicles throughout its expansive network of online affiliates and luxury and exotic

³ Pursuant to agreement with the Receiver, Mrs. Healy was allowed to utilize the Suburban for a period of time which she has now relinquished to the Receiver.

car clubs.⁴ Set forth below is the *pro forma* communication which has been and will continue to be sent by the Receiver, along with the vehicle details and a bid package, to all parties interested in participating in the auction:

The law firm of Damian & Valori LLP, as counsel for Melanie Damian, Esq., the Receiver for the Estate of Sean Nathan Healy, will be holding a private auction of luxury and exotic vehicles of the Estate (the "Vehicles") at the law office of Damian & Valori LLP, 1000 Brickell Avenue, Suite 1020, Miami, Florida 33131, at 10:00 AM on Wednesday, February 3, 2010. The Vehicles are detailed in the list attached as Exhibit A to the Notice of Opportunity to Bid attached hereto.

Only Qualified Buyers may participate in this private auction. To qualify as a Qualified Buyer, please refer to paragraph 7 of the attached Notice of Opportunity to Bid, and submit the requested documents to our office on or before Wednesday, January 27, 2010. In addition, Qualified Buyers may, in the presence of and in accordance with the availability of the Receiver or her agent, conduct due diligence, including an inspection of the vehicles, at the warehouse where the vehicles are being stored.

⁴ The advertisement for the February 3, 2009 auction is also being carried by the following Ultimate Marketplace website partners: AAWSM Stuff; AutoBuy.com; ClassicCar.com; ChooseYourItem.com; FunRoads.com; GreatVehicles.com; Muscle and Classic Cars; Internet Sports Cars; Internet Classic Cars; CarFrenzy.com; Vast.com; AOL Autos; Oodle Classifieds; Walmart; Facebook; The Washington Post; Lycos; Froogle.com; Google.com; LemonFree.com; NoNeck's; 73-87 Chevy Trucks; Cool Site of the Day; 1800 ShoppingDeals; AdlandPro Classifieds; Gearhead; Ultimate Car Page; A Car Place; WixTech; Love My Wheels; Volition

A full copy of the Notice of Opportunity to Bid is attached hereto as **Exhibit “B”**. The Receiver has also been contacted by the Ft. Lauderdale Sun-Sentinel and has been able to place the auction date and specifics into a general interest article on Mr. Healy set for publication on Friday January 29, 2009.

C. THE JEWELRY AND WATCHES

Since the Initial Report was filed, the Receiver has obtained possession⁵ of the following additional items of jewelry and watches from the Healys:

- i) three Paris Hilton Watches (gold encrusted with diamonds), with retail value of \$310,000;
- ii) one mens Hublot BB (Big Bang) King watch (palladium with diamonds), with retail value of \$90,000;
- iii) one ladies Hublot Big Bang watch (rose gold with diamonds), with value of \$33,900;
- iv) one ladies Hublot (rose gold with pink sapphires), with retail of \$21,900;
- v) one ladies Corum Bubble Watch with diamonds, with retail value of \$4,000;
- vi) one ladies Gregg Ruth diamond engagement ring (one 4.01cts. Radiant cut fancy pink center diamond with numerous other smaller diamonds), with retail value of \$619,000; and

⁵ The jewelry and watches are currently being stored in safe deposit boxes which the Receiver opened to secure these items.

- vi) one ladies Gregg Ruth diamond engagement ring (platinum with one 8.09cts. yellow fancy radiant cut center diamond with numerous other smaller diamonds), with retail value of \$257,000.

In addition, attached hereto as **Exhibit "C"** is an updated list of the jewelry and watches that the Receiver knows Mr. Healy purchased but the whereabouts of which are unknown. Further, after the Initial Report was filed, the Receiver learned from her jewelry appraiser that: i) the diamond-encrusted cross charm that she originally seized from the Healys is a fake containing cubic zirconium; and ii) the missing 4.75 cts. diamond stud earring that the Healys turned over after the Initial Report was filed is a fake containing cubic zirconium. The pair of diamond stud earrings (4.75 cts. each) was purchased by Mr. Healy for \$161,000.

D. THE VALUABLE HOUSEHOLD ITEMS

In the Initial Report, the Receiver catalogued a number of valuable household items at the Defendant's residence, including seventeen plasma televisions, multi-room stereo speaker system, digital house-CAT 5 home automation system, a Runco movie projection system, a movie screen, a pool table, designer and custom furniture and fixtures, two sets of LG washer-dryer units, gym equipment, and a treadmill. Because of the nature of their fixture to the Riviera Property Residence, these items are going to remain in, and be sold by the Receiver with, the home.

E. VARIOUS OTHER VALUABLES

As set forth in the inventory attached to the Initial Report, the Receiver has taken possession of three signed memorabilia guitars, sports memorabilia, an extensive set of Versace Rosenthal stemware, flatware and utensils, numerous Giuseppe Armani figurines and other statues, and artwork.⁶ The Receiver plans to appraise these items and file a motion with this Court to approve their sale.

The Bank Atlantic Center has re-purchased the Healy's' box holding 20 seats for the 6 or 7 remaining shows under the License Agreement through the end of its term on September 14, 2009, for \$6,000, a reasonable value for the remaining shows.

F. THE GOLD AND SILVER COIN COLLECTION

As stated in the Initial Report, the Receiver seized numerous collectors' gold and silver coins, coin sets, a silver bar and other bullion.⁷ These items were inspected by the Receiver's numismatics expert on Wednesday, January 27, 2010. The Receiver has received initial indications that the value of these items is \$65,225.00. *See Exhibit "D"*. The Receiver

⁶ These items have been transported to the warehouse for storage.

⁷ These items are currently being stored in the Receiver's safe deposit boxes.

intends to file a motion to sell these items in a manner as counseled by the Receiver's numismatics expert.

V. DESCRIPTION OF LIQUIDATED AND UNLIQUIDATED CLAIMS AND STATUS OF CREDITOR CLAIMS PROCEEDINGS

The Receiver is currently considering and coordinating the framework for the claims administration process with the SEC, the CFTC and the Forensic Accountants. This proposed claims process will be finalized after the sale of the Riviera Manor Property and the vehicles and after the final judgment is entered in this case. At that time, the Receiver will file a motion with the Court to approve the process to be proposed.

VI. LIST OF ALL KNOWN CREDITORS

Attached hereto as **Exhibit "E"** is a list of all known creditors with their addresses and the amounts of their claims, as required to be filed by paragraph 36 of the TRO [D.E. 12].

VII. THE RECEIVER'S RECOMMENDATIONS

The Receiver remains dedicated to accumulating and preserving the Estate assets as set forth above in a cost efficient manner beneficial to the Estate creditors. The nature of the Receivership will change at such time as: i) the Riviera Manor Property – the Estate's most valuable asset – is sold; ii) the vehicles – among the Estate's most valuable assets – are sold; and iii)

final judgment is entered against the Defendant and Relief Defendants. As soon as those issues are resolved, the Receiver will file motions with the Court to approve the sale of the jewelry, watches, gold and silver, and to approve the Receiver's proposed claims administration process. This will allow the Receiver to disburse the Estate's assets and wind down the Receivership Estate.

Dated: February 1, 2010

Respectfully submitted,

/s/ Melanie E. Damian

Melanie E. Damian, Esq., as Receiver
of the Estate of Sean Nathan Healy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing have been sent by U.S. Mail, email, and/or facsimile to the addressees on the attached Service List, this 1 day of February, 2010.

/s/ Stephen C. Goldblum

Stephen C. Goldblum, Esquire
Counsel for Receiver

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