

**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 THIRD REPORT

Pursuant to paragraphs 35 and 36 of the Court’s July 13, 2009 Temporary Restraining Order, Order Freezing Assets and Granting Other Relief, and Order to Show Cause (“TRO”) [D.E. 12]¹, Melanie E. Damian, Esq., the court-appointed receiver (the “Receiver”) in the above-captioned

¹ The TRO was modified by the Court’s July 20, 2009 Stipulation and Order Granting Preliminary Injunction, Freezing Assets and Other Relief [D.E. 21]. None of the modifications therein are pertinent to the issues herein.

matter, herby submits the Receiver's Third Report regarding the present status of the Estate of Sean Nathan Healy (the "Estate").

I. SUMMARY OF OPERATIONS OF THE RECEIVER

This Third Report is an update to the Receiver's Initial Report (the "Initial Report") [D.E. 29] dated July 30, 2009, the Receiver's Second Report (the "Second Report") [D.E. 38] dated January 31, 2010, and the Supplement to the Receiver's Second Report (the "Supplemental Report") [D.E. 80] dated February 11, 2010. Since the filing of the Supplemental Report, 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. The counsel for all interested parties continue

to work together to efficiently gather assets and liquidate the estate, and are in discussions regarding an appropriate distribution plan.

On November 23, 2009, Sean Healy entered a plea of guilty and was convicted in the criminal action [Case No. 09-cr-319], and was sentenced, on April 1, 2010, to 188 months in federal prison, followed by three years of supervised release, and ordered to pay restitution in the amount of \$16,773,995.00. On April 6, 2010, Mr. Healy signed the Consent [D.E. 83] in the SEC enforcement action, and the Consent in the CFTC enforcement action. In the Consent, among other things, Mr. Healy has: agreed not to oppose or deny any of the allegations of the Complaint filed against him; waived all rights in the property comprising the Receivership; and consented to the entry of judgment against him.

A. 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. As noted in the Receiver's previous reports, the Receiver has recovered funds held by Alan Ross, Esq. of Robbins, Tunkey, Ross et. al, and Jeffrey Cox, Esq. of Sallah & Cox, LLC. In addition, subsequent to the filing of the

Supplemental Report, the Receiver settled her claims against Mr. William Costopoulos, Esq. of Costopoulos, Foster & Fields (Mr. Healy's criminal counsel) securing the return of \$7,500.00 to the Estate.

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]. On March 4, 2010, the Receiver entered into a settlement agreement with WHCC, LLC, securing the return of \$20,000 to the Estate.

The Receiver is in the process of obtaining records from investors regarding amounts invested with Mr. Healy and amounts they already received back from Mr. Healy to determine if any investors received back more than they invested. In such case, the Receiver would bring fraudulent transfer actions against any such investors for the return of any amount they received back in excess of their investments. For example, the Receiver has initiated such collection efforts against Karen Goelz, Mr. Healy's mother, for the return of approximately \$95,000.00 that was fraudulently transferred

to her from investor accounts. *See* Demand Letter to Karen Goelz, attached hereto as **Exhibit A**.

II. THE AMOUNT OF CASH ON HAND

The Receiver reports the following cash on hand: \$1,024,468.55, which is currently held at Gibraltar Private Bank & Trust.

III. SCHEDULE OF THE RECEIVER'S RECEIPTS AND DISBURSEMENTS

Attached hereto as **Exhibit B** 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

As reported in the Second Report, in connection with selling the residence, the Receiver has retained the Marina Realty Group (the "Listing Agent"), 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. Accordingly, the Receiver has signed the Listing Agreement and the property is now actively being marketed for sale.

After consulting with the investors and performing extensive market research, the Listing Agent initially listed the property on the MLS (Multiple Listing Service) for \$3.4 million. The MLS is, by far, the most far-reaching method of marketing real property to the largest audience, including by its connection to realtor.com and various other online sites. The MLS listing of the property states that any sale is subject to the approval of the Receivership Court. In addition, the Listing Agent has engaged in other marketing efforts, such as sending out mailings to potential homebuyers in the surrounding community, and contacting local real estate offices to highlight the listing and inviting them to preview the residence.

The property was shown to numerous potential buyers and the Listing Agent received verbal offers between \$1.7 and \$2 million, and one written offer for \$2.35 million. The Receiver made a counteroffer for \$3.1 million, but no agreement was reached. Subsequently, after consulting with the investors again, the Receiver and the Listing Agent reduced the asking price to \$3.1 million. Since that reduction, the Listing Agent has shown the house several times but has not yet received any offers. 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 by motion for approval. Such motion will seek approval of the sale of the residence, and approval of the payment of commission to the realtor pursuant to the terms of the Exclusive Listing Agreement (*i.e.*, 4% of the sale price if the Listing Agent brings the buyer, and 5% of the sale price if the buyer is brought by another realtor), and will list the reasons why the Receiver believes that selling the residence at such price is in the best interest of the Estate.

B. THE LUXURY VEHICLES

As more fully described in the Second Report and the Supplemental Report, the Receiver held an auction of the vehicles at her office on February 3, 2010, pursuant to this Court's Order [D.E. 77]. Since the auction, the Receiver has sold the last remaining luxury vehicle, the "Hummer"-style golf cart, for \$9,500.00, and has also sold the custom-made Lamborghini detachable soft top for \$4,000.00. The sale of these two items brings the total amount realized by the Estate from the sale of the luxury vehicles and associated items to \$735,500.00. The only remaining item relating to the luxury vehicles is the factory Lamborghini top, which appears to be missing several pieces. Nonetheless, the Receiver will continue her efforts to sell the factory top, and will keep the Court apprised of her progress in subsequent reports.

C. THE JEWELRY AND WATCHES

Attached hereto as **Exhibit C** is an updated list of the jewelry and watches of which the Receiver is in possession and intends to liquidate for the benefit of the Estate. In all, the Receiver is in possession of twenty-four (24) items of jewelry: ten (10) watches; three (3) necklaces; six (6) bracelets; two (2) rings; two (2) pairs of earrings; and one (1) earring without its match. The Receiver has had the items appraised by a certified appraiser who is a watch and jewelry expert. Their current market values are significantly less than the amounts which Healy paid for them, in part because of the currently weak economy and, in particular, the weak diamond market. To further ascertain the jewelry and watches' liquidation value to the Estate, the Receiver has approached various jewelers, watch dealers and retail customers to get an idea of the demand for the various items and the amounts for which they will likely sell.

The Receiver has also considered holding an auction for the items, either online (such as on eBay), in person, or through a professional auction house. To this end, the Receiver sent descriptions and pictures of the Jewelry to international auction houses, including Sotheby's and Christie's, to obtain proposals for the auction of the items, including procedures, timing and fees. Both Sotheby's and Christie's marketing fees are \$300-\$400 per

item. Sotheby's sale fee is 10% of the sale price (which is negotiable based on the total sale price for all items) and Christie's sale fee is 8% if the total sale price is up to \$100,000.00, 7% if the sale price is between \$250,000.00 and \$500,000.00, and 5% if the sale price is \$500,000.00 to \$1 million.

Based on the foregoing investigation, the Receiver has determined that utilizing different methods of sale for different types and classes of items will generate the highest total sale price for all of the items. In particular, subject to the final proposals of Christie's and Sotheby's, the Receiver believes that the more valuable items of designer jewelry, including the Gregg Ruth and Levian Couture jewelry, will generate the highest sale prices through an auction conducted by Christie's or Sotheby's. The Receiver believes that an online auction through eBay will generate the highest sale prices for the more valuable watches given the watch market, the frequency of watch sales, and class of watch buyers utilizing eBay. For the in-person and online auctions, the Receiver will set reserve prices based on the appraisals obtained and the Receiver's independent market research and advice of the auction houses. The Receiver believes that the less valuable items should be sold to local jewelers given the marketing and logistics involved in holding the in-person and online auctions.

D. 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.² 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 \$65,000.00. The Receiver intends to sell these items in a manner as counseled by the Receiver's numismatics expert, which the Receiver believes will maximize the return to the Estate.³

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, currently being held in secure storage by the Receiver. The Receiver plans to appraise these items and sell them by auction or sale to

² These items are currently being stored in the Receiver's safe deposit boxes.

³ The Receiver's numismatics expert, one of the country's pre-eminent dealers and appraisers of rare and valuable coins, has counseled the Receiver that the course of action best calculated to obtain maximum return to the Estate is for the numismatics expert to market the coins and bullion to various of his current and past retail customers, among others.

collectors or specialty buyers depending on the Receiver's final determination regarding which type will generate the highest sale prices.

The Receiver believes that pursuant to the TRO and the Preliminary Injunction, along with the Consent of Defendant Sean Nathan Healy, the Receiver is authorized to sell the jewelry, watches, and other personal property of the Receivership Estate without further order of the Court. The Receiver has consulted with counsel for the SEC and CFTC and they agree with the Receiver's proposed methods for selling the jewelry, watches, coins and bullion and other valuable personal property.

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

The Receiver is currently considering and formulating the framework for the claims administration process with the SEC, the CFTC, the Forensic Accountants, and counsel for various investors. This proposed claims process will be finalized in the next two months, at which 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 D** 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 CONCLUSIONS

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 jewelry, watches, coins and bullion, and other valuable personal property are sold; and iii) the claims administration process is finalized and approved by the Court. After the claims process is approved, the Receiver will send out the claims forms to all defrauded investors, evaluate the claims received, and determine the allowed amount of each such claim. After such determination and the necessary court approval, the Receiver can disburse the Estate's assets to the investors and wind down the Receivership Estate. The Receiver is hopeful that such process can be accomplished by the end of 2010.

Dated: April 15, 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 on this 15th day of April, 2010, a true and correct copy of the foregoing has been served upon all addressees on the attached Service List, via CM/ECF and/or by U.S. mail.

/s/ Stephen C. Goldblum
Stephen C. Goldblum

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