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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

THOMAS E. PEREZ, Secretary of the United
States Department of Labor,

Plaintiff,

v.

MATTHEW D. HUTCHESON, HUTCHESON
WALKER ADVISORS LLC, GREEN VALLEY
HOLDINGS LLC, and the RETIREMENT
SECURITY PLAN AND TRUST, f/k/a PENSION
LIQUIDITY PLAN AND TRUST,

Defendants.

Case No.: 1:12-CV-00236-EJL

MAY 2014 INDEPENDENT FIDUCIARY REPORT AND FEE NOTICE OF COSTS
AND EXPENSES

PURSUANT TO THE Preliminary Injunction entered on June 13, 2012 [Doc. 16], Jeanne
B. Bryant, Independent Fiduciary for Retirement Security Plan & Trust (RSPT) submits this
Twenty-Fifth Report and Notice for the period beginning May 1, 2014 – May 31, 2014.

I. ACTIVITY REPORT

ADMINISTRATIVE FEE COLLECTIONS

The Independent Fiduciary (“IF”) informed the Sponsoring Employers of the current status of their individual collections involving payment of the monthly administration fee. Attached as **Exhibit 1** is a report noting the collections and payments made from the account for previously approved fees and cost through May 2014. The Independent Fiduciary has determined to collect any unpaid monthly administration fees using the same process previously approved by the Court.

ASSET RECOVERY EFFORTS

As previously reported, the IF hired contingency counsel for asset recovery legal services, and has received payment from ASPIre for any amounts due for previously approved fees and costs concerning the PCB investment from those members holding such accounts. All costs have been paid by the RSPT sponsor employers and/or the RSPT Plans on an ongoing basis, pursuant to the payment submission and approval procedures previously outlined in the court’s Preliminary Injunction Order entered on June 13, 2012.

A conference call was held on March 19, 2014 with employers to provide a current status update on all asset collection efforts and the issues presented concerning those efforts. On that call, the probable necessity for the RSPT participants holding PCB interests to pay property taxes on the property that is subject to the RSPT claim was discussed. This payment has now been made in the same fashion as the allocation of the tax payment was made in 2013.

The Note concerning the PCB investment has been turned over to the RSPT asset recovery counsel in Idaho. A foreclosure action was filed against Green Valley Holdings and West Mountain Golf. A Stipulated Order of Foreclosure was entered. The IF is working with

asset recovery counsel on scheduling a sale and is advising the RSPT employer sponsors on an ongoing basis. The IF is currently disputing the ongoing use by Tamarack Resort owners of the golf course and lodge facilities securing the Note. These owners continue to use the facilities pursuant to a previous lease agreement with West Mountain Golf which the IF (on behalf of RSPT as lender) has terminated, and which did not require any significant lease payments to West Mountain Golf. There has been discussion of a possible meeting with all the involved parties to take place as soon as possible to try to move forward with the sale. The IF has agreed to such a meeting.

Last year the Independent Fiduciary sent notice of the issue of payment of property tax on the Idaho property to the RSPT employer group and the collections were completed before the end of July 2013 and the taxes paid. As a result, the Plans' interest in the golf resort properties was preserved. It has been determined that this process will need to be followed again. As outlined in last month's report, the Independent Fiduciary has now sent the funds necessary to pay the taxes in the amount of \$135,199.20 to Valley County, Idaho for property taxes due for 2010 using RSPT plan assets. The Independent Fiduciary has allocated this expense to those employer plans in the RSPT holding interests in the PCB Note. Due to the illiquid nature of some of the participants' accounts within affected employers' plans, those participants holding PCB investments with liquid balances will initially bear a heavier share of the expense. These funds will be restored dollar for dollar, on a first priority basis, from the expected proceeds due to RSPT from the sale of the property. The Independent Fiduciary has sent notice of this process to the RSPT employer group, and this process is now completed.

The IF is pursuing a fiduciary bond claim on the fiduciary bond insuring against Hutcheson's actions. This case remains ongoing, with the parties currently engaging in

discovery and discussing settlement options. The IF is also pursuing recovery of a house located within Tamarack Resort that was previously owned by Green Valley Holdings, LLC (Hutcheson's company that "borrowed" the funds from RSPT to purchase the golf course note and mortgage). That matter also remains pending, with the Defendants (and current owners – Mr. Hutcheson's mother- and father-in-law) actively defending that case. A trial in that matter is currently set for March 30, 2015. The IF also continues to investigate potential additional claims against additional parties.

II. ANTICIPATED FUTURE ACTIVITIES AND RESOLUTION OF ISSUES

1. Early Withdrawal Procedures. As stated in earlier reports, an early withdrawal process has been discussed with the Department of Labor and the IF filed information and the process that would be followed in the October Report filed with the Court in early December 2012. There were no objections filed to that process. As of this report 11 employers have completed the early withdrawal process, and 1 employer has partially completed the process.

2. Valuations for Individual Employers. Employers under the terms of the RSPT Plans' Documents are required to provide an annual independent business valuation to the Plans' trustee and administrator. The co-trustee agreements executed by each sponsoring employer require a business valuation to be submitted by May 31 following the end of a plan year at 12-31. As of the filing of this report four (4) employers have submitted their business valuations for valuations as of 12-31-2013.

3. Directed Investments by Members. The IF has determined not to amend the Plan Document to allow participants to direct individual investments and to maintain the current Plan structure. Investment changes can be made by contacting the IF's office who, once receiving

appropriate documentation, will issue instructions to ASPIre. The available mutual funds are not being changed.

4. Hardship Applications. The IF has received 8 hardship applications from participants. 5 hardship applications have been granted and 5 have been paid. 2 remain pending for completed distribution forms and additional information. The other remains pending due to the fact the account has no liquid balance. The IF believes that, given the strict limitations on hardship distributions, no significant harm to the RSPT plans will occur if hardship applications are allowed to be processed. The IF has established procedures for handling hardship distribution applications and required minimum distributions, and after consultation with the DOL believes the previous Orders issued by the Court allow the IF to process hardship distribution applications without any other Orders being required. The IF has adopted an amendment to the plan in order to assist members with this process and has sent out Notice of this amendment to the members.

III. ACCOUNTINGS REGARDING THE RSPT PLANS

As noted in Section 18 of the June 13, 2012 Preliminary Injunction, before causing the RSPT Plans to pay compensation, fees or expenses, the IF is to provide written notice (the “Fee Notice”) of such compensation, fees or expenses, by filing the Fee Notice (such as set forth herein) with the Court, and by serving a copy of that filing to the Secretary of the U.S. Department of Labor, Employee Benefits Security Administration, Huteson and HWA. The IF intends to submit her Fee Notice and Activity Report on a monthly basis. If, within fifteen (15) days after filing of a Fee Notice, no objection to the Fee Notice, nor to payment by the Plan of the compensation, fees or expenses described therein, is filed with the Court, such compensation, fees or expenses shall be deemed reasonable expenses of the RSPT Plans and shall be paid by the RSPT Plans without further action or approval of the Court. The fees and

expenses will be allocated as outlined above. In an effort to reduce costs, copies of this Report and Fee Notice are being posted to a website of the IF's company Receivership Management, Inc. ("RMI") and the participating employers will be given notice of the filing.

Attached hereto as **Exhibit 2** is a schedule of the hourly rates for the Independent Fiduciary and the hourly rates of any staff of Receivership Management, Inc. that might be used to carry out the terms of the Court's June 13, 2012 Preliminary Injunction.

Attached hereto as **Collective Exhibit 3** are expense summaries for the period of May 1, 2014 – May 31, 2014.

Total expenses, as listed on **Collective Exhibit 3** include \$1,725.00 in IF fees, \$242.50 in legal expenses, and \$9,076.83 in contract labor expenses (which include auditor fees and identified charges for other fees, postage, copies, telephone, travel, etc.) for the period of May 1, 2014 – May 31, 2014.

Please note that counsel have, as necessary, redacted exact descriptions of litigation issues in order to protect applicable privileges, and the IF may also redact the names of employers and or members as to protect the companies or the members involved when responding to individual questions if required. The IF believes that the remaining descriptions are sufficient for approval of the charges requested. All expenses and fees are separated between those costs necessary for administration and those costs necessary for asset recovery, and will be paid as noted in this report.

In the absence of any objection, total reimbursement for \$1,725.00 in IF fees, \$242.50 in legal expenses and \$9,076.83 in contract labor expenses for administration and litigation will be paid from the Plan's expense reserve in accordance with the Court's June 13, 2012 Preliminary Injunction. The exact amounts and the parties to be paid are listed below:

- | | | |
|----|------------------------------|------------|
| 1. | Jeanne Barnes Bryant | \$1,725.00 |
| 2. | Angstman Johnson | \$117.50 |
| 3. | Berry & Tudor | \$125.00 |
| 4. | Receivership Management Inc. | \$9,076.83 |
| | \$3,350.00/Contract labor | |
| | \$5,726.83/Other expenses | |

Pursuant to the Court's June 13, 2012 Preliminary Injunction [Doc. 16], if no objection is filed with the Court within fifteen (15) days after the filing of this Notice and Report, the IF will proceed to authorize payments due counsel and any other parties listed.

DATED this 8th day of July, 2014.

/s/ Matt Christensen
MATTHEW T. CHRISTENSEN
Attorney for Jeanne B. Bryant, Independent
Fiduciary for RSPT Plans

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the individual(s) so noted below.

Jamila B. Minnicks	minnicks.jamila@dol.gov
Michael R. Hartman	hartman.michael@dol.gov
Michael A. Schloss	schloss.michael@dol.gov
Raymond E. Patricco	raymond.patricco@usdoj.gov
Michael J. Elia	mje@mbelaw.net
J. Graham Matherne	gmatherne@wyattfirm.com
Matthew T. Christensen	mtc@angstman.com

All others as listed on the Court's ECF Notice.

I further certify that on the 8th day of July, 2014, I served a copy of the foregoing notice on the following individuals or entities via US Mail, postage prepaid.

Matthew D. Hutcheson
33 Pinnacle Court
Donnelly, ID 83615

Matthew D. Hutcheson 14620-023
Federal Correctional Institution
P.O. Box 3007
Terminal Island, CA 90731

Matthew D. Hutcheson
14076 Morell Road
McCall, Idaho 83638

Monty W. Walker
c/o R. Bradford Huss
Trucker Huss, APC
One Embarcadero Center, 12th Floor
San Francisco, CA 94111

DATED: July 8, 2014

/s/ Matt Christensen
Matthew T. Christensen