

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 14-80468-CV-MIDDLEBROOKS/BRANNON

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JCS ENTERPRISES, INC. d/b/a JCS
ENTERPRISES SERVICES, INC., T.B.T.I., INC.,
JOSEPH SIGNORE, and PAUL L. SCHUMACK, II,

Defendants.

RECEIVER'S INTERIM REPORT CONCERNING CLAIMS PROCESS

I, James D. Sallah, Esq., not individually, but solely in my capacity as the Court-appointed receiver (the "Receiver") for JCS Enterprises Inc., d/b/a JCS Enterprises Services Inc. ("JCS"), T.B.T.I., Inc. ("TBTI"), My Gee Bo, Inc. ("Gee Bo"), JOLA Enterprise Inc. ("JOLA"), and PSCS Holdings, LLC ("PSCS"), their affiliates, subsidiaries, successors, and assigns (collectively, the "Receivership Entities" or "Estate") submit this report regarding the interim status of the claims process ("Interim Report"). Although the Order Reappointing me as Receiver dated December 12, 2014 ("Receivership Order") (DE 173) does not require me to file status reports, I believe it is prudent at this time to submit this Interim Report to apprise the Court and all interested parties of my ongoing efforts in carrying out my court-ordered obligations, particularly insofar as the claims process is concerned.

IMPORTANT – PLEASE READ CAREFULLY

THE STATEMENTS CONTAINED IN THIS REPORT ARE BASED ON MY INVESTIGATION CONDUCTED IN THE TIME ELAPSING FROM THE RECEIVERSHIP'S ESTABLISHMENT. I HAVE COMPILED THIS REPORT BASED ON BOTH MY AND MY PROFESSIONALS': (1) REVIEW OF TENS OF THOUSANDS OF PAGES OF DOCUMENTS, INCLUDING EXTENSIVE FINANCIAL RECORDS; AND (2) INTERVIEWS WITH NUMEROUS INDIVIDUALS, INCLUDING EMPLOYEES, ACCOUNTANTS, LEGAL PROFESSIONALS, VENDORS, INVESTORS, FINANCIAL INSTITUTIONS, AND OTHER RELATED PERSONS. THE FACTS AND CONCLUSIONS HEREIN MAY BE SUBJECT TO CHANGE AS MY INVESTIGATION PROGRESSES DURING THE COURSE OF THE RECEIVERSHIP. AS ADDITIONAL INFORMATION IS DISCOVERED, I INTEND TO FILE ADDITIONAL REPORTS FROM TIME TO TIME.

IN WRITING THIS REPORT, I HAVE ATTEMPTED TO BALANCE THE IMPORTANCE OF FULL AND FAIR DISCLOSURE OF MATERIAL INFORMATION WITH THE CONCERNS OF THE UNDERLYING BUSINESSES AND ASSETS INFORMATION REMAINING CONFIDENTIAL FOR COMPETITIVE REASONS. TO THAT END, I HAVE OPTED, IN MOST CASES, TO DISCLOSE A SIGNIFICANT AMOUNT OF FINANCIAL INFORMATION AND CAUTION ANY INDIVIDUALS OR ENTITIES WHO INTENTIONALLY MISREPRESENT THE INFORMATION CONTAINED HEREIN IN AN EFFORT TO DISPARAGE THE RECEIVERSHIP ENTITIES, OR SEEK TO USE IT UNFAIRLY TO GAIN A COMPETITIVE ADVANTAGE, THAT ANY SUCH ACTION MAY HAVE SIGNIFICANT LEGAL CONSEQUENCES.

FINALLY, TO THE EXTENT THAT THE RECEIVERSHIP ENTITIES ARE ENGAGED IN LITIGATION OR ARE EXPLORING POTENTIAL LAWSUITS AGAINST INDIVIDUAL OR ENTITIES, I HAVE NOT SET FORTH ALL OF THE INFORMATION SURROUNDING THESE LAWSUITS OR POTENTIAL LAWSUITS SO AS NOT TO DISCLOSE PRIVILEGED, WORK-PRODUCT INFORMATION, OR LITIGATION STRATEGY.

I. STATUS OF THE CLAIMS PROCESS

A. The Claims Process

On April 3, 2017, the Court issued an Order granting my Motion to Approve Claim Form, Manner and Notice of Claim Form, and Claims Bar Date filed on March 31, 2017. (DE 377). Subsequently on July 20, 2017, the Court issued an Order permitting me to make a minor amendment to the claim form. (DE 386). In accordance with these Orders, I did the following: 1) published the proof of claim form in *The Palm Beach Post* once a week for four (4) consecutive weeks; 2) provided the claim form along with an explanatory cover letter to all known or potential claimants via U.S. Mail and email, if known; 3) provided notice of the claim form on the Receivership website; and 4) requested that notice of the claim form be posted on the investors' page on Facebook. Specifically, I mailed the cover letter and claim form to at least **1,030** potential claimants and/or creditors for whom I had gathered contact information.

My notice made clear that the Claim Bar date was November 27, 2017. In response, I received a total of **678** claim forms (most of which contained supporting documentation) either prior to or after the Claim Bar date.¹ The submitted claims seek a total of \$34,969,405.60.

Since December 2017, my professionals and/or their staff have been organizing and reviewing the submitted claim forms and supporting documentation. This has been, and continues to be, a time-consuming and tedious process that involves, among other things, me and my forensic accountants comparing documentation submitted with the proof of claim forms to the financial

¹ In my Sixth Report (DE 404-1), I represented that I had received 700 claims forms. However, during my review, I determined that there are actually a total of 678 claims forms; this difference was a result of inadvertently omitting a small sequence of numbers as forms were assigned numbers.

reconstruction of the Receivership Entities' bank and financial accounts and other records under my control (collectively, the "financial reconstruction").

B. Summary of the Claims Forms and Preliminary Analysis to Date²

i. Allowed Claims

Of the claims forms submitted and reviewed, I have made a determination that I will likely move the Court to "allow" a total of **416** (61.36%) of the submitted claims. By "allowed," I mean that the total amount sought on the claim form is consistent with the amount that my professionals and I determined from the financial reconstruction. The total amount of such allowed claims is \$11,995,435.44.

To the extent that an investor's claim is allowed, I will recommend that the Court permit me to make a distribution to that investor upon court approval of my future, recommended distribution plan (See Section C of this Report). The total dollar amount of allowed claims currently exceeds the amount of money in the Receivership Estate available for distribution; therefore, investors with allowed claims will receive a distribution *below* their claim amount. Although these amounts remain undermined at this time, it is highly probably that the total allowed claims after all claims are resolved will exceed the total amount of funds available for distribution.

ii. Disputed Claims

Based on my comparison of the claim forms to the financial reconstruction, I made a determination that I will likely dispute **227** (33.48%) of the submitted claims because the financial reconstruction and the submitted claim forms, including any supporting documentation, could not

² All recommendations in this Report are subject to the Court approval and order. Nothing in this Report entitles any investor and/or creditor of the Receivership Estate to a future distribution, or payment, of any money. The purpose of this Report is to provide the Court with my preliminary analysis of the claim forms, to date.

be reconciled. For example, in many instances I determined that the claim forms neglected to include funds received either from a receivership entity or from a collateral source (i.e., chargebacks). In total, the disputed claims amount to \$12,519,095.51. At this time, I believe that the total amount of such claims should be \$8,245,764.89, which places a difference of \$4,273,330.61 at issue.

While I may agree that some of the investors with disputed claims should be entitled to some distribution based on the claim amount that agrees with the financial reconstruction, I will recommend that a portion of their claim be disallowed because it is disputed. As explained above, if some portion of a disputed claim is allowed, any distribution will be based upon a portion of the allowed claim (i.e., \$8,245,764.89).

iii. Subordinated Claims

I have also received **6** claims from claimants that I characterize as “trade creditors.” I will likely recommend that the Court subordinate to the allowed claims submitted by aggrieved investor victims. I believe that the case law supports my position, particularly in the context of an equity receivership. The trade creditors’ claims total \$7,795,080.85 and, if given equal status to the allowed claims, would substantially dilute the distribution to the investor victims. This will likely be an issue before the Court in the future.

iv. Fictitious Profits

Of the 678 claims forms submitted, a total of **28** (4.13%) seek “fictitious” profits. By fictitious, I mean that they seek the profits, or investment returns, promised to them by the Defendants either orally or by contract, or both. The investors seeking the fictitious profits are seeking a total of \$2,514,136.20. After reviewing their claims with my professionals, I determined

that an amount of only \$393,390.00 should be allowed claims, which places a total of \$2,120,746.20 at issue.

v. Montana Claim³

The State of Montana submitted a claim for reimbursement for \$145,657.60 that it paid out Montana resident investors, pursuant to its Securities Restitution Assistance Fund Act of Montana (the “Act”), Mont. Code. Ann. §§ 30-10-1001 to -1008 (2017). Pursuant to the Act, Montana has created and continually maintains a fund that it utilizes to reimburse Montana-approved residents who are victims of an investment fraud. It is my position that the Montana Claim should be subordinated, as the Receivership Estate should not be required to reimburse the State of Montana because of a mandate created by the Montana legislature, and through a claims and distribution process not approved by this Court. This will likely be an issue before the Court in the future.

vi. Anticipated Claims Process

Shortly, I will direct my counsel to file a motion requesting court approval of my recommended initial distribution plan. Considering the number and variety of claims, I anticipate that this motion will be extensive. This motion will then be subject to objections from each claimant, possible litigation, and this Court’s consideration.

The Court should be aware I, or someone at my direction, have spoken with numerous investors and creditors who are curious when I will be making a distribution of monies. At this time, I am unable provide them with a timeframe for an initial distribution. Typically, I would recommend that the Court authorize an initial distribution with a reserve for disputed and/or subordinated claims and future expenses. However, from my initial review of the claims forms, I

³ I specifically bring this claim to the Court’s attention as it is unique and involves a non-private actor.

anticipate that the magnitude of the disputed and/or subordinated claims could have such a significant impact on the Estate that it would be potentially unfair and uneconomical to seek an initial approved distribution until such time as the Court decides all future disputed claims. Therefore, it is difficult for me to predict the time necessary to provide all submitted claimants with due process and for the Court to hear and decide any objections to the recommendations in my future claim motion.

II. CONCLUSION

In conclusion, I am continuing to carry out my directives under the Receivership Order. I plan to submit additional status reports from time to time, and the facts and conclusions in this Interim Report Concerning the Claims Process are subject to change as my investigation and litigation progresses during the course of the Receivership.

Executed June 12, 2018

Respectfully submitted,

/s/ James D. Sallah

James D. Sallah, Esq.,

Not individually, but solely in my capacity as Receiver of JCS Enterprises, Inc. d/b/a JCS Enterprises Services, Inc., T.B.T.I., Inc., JOLA Enterprise, Inc., PSCS Holdings, LLC, and My Gee Bo, Inc.