

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Case No. 08-cv-5348 ADM/JSM

Plaintiff,

v.

THOMAS J. PETTERS, et al.,

**FIRST REPORT OF THE
RECEIVER**

Defendants.

Douglas A. Kelley (hereinafter the “Receiver”) respectfully submits his First Report to the Court, summarizing the major activities of the Receiver during the first 60 days of the Receivership.

I. RETENTION OF PROFESSIONALS

To assist in his receivership duties, the Receiver retained a number of professional firms. They include the following:

a. Lindquist & Venum P.L.L.P. Lindquist & Venum was retained by the Receiver to provide legal services in the areas of corporate, commercial, real estate, bankruptcy, employment, environmental, insurance, and litigation. The Receiver believed it necessary to retain a firm capable of committing substantial resources to a variety of legal areas to assist in stabilizing the viable businesses among the numerous Petters’ entities.

b. Houlihan, Lokey, Howard & Zukin. Houlihan Lokey, an international investment banking firm, was retained for advice concerning strategic options available

to Polaroid Corporation and to assist in maximizing the value of Polaroid Corporation and its subsidiaries.

c. Price Waterhouse Coopers (PWC). PWC was retained to provide forensic consulting services. The scope of the alleged fraud and the extended period of time over which it transpired required a large accounting firm that was able to devote significant resources to this effort.

d. Price Waterhouse Coopers – Corporate Advisory and Restructuring. PWC-CAR was retained to assist in analyzing certain financial transactions. Most notably to date, PWC-CAR advised the Receiver on extending debtor-in-possession financing in the amount of \$5,000,000 to Sun Country Airlines.

e. FTI Consulting, Inc. FTI has been retained by the Receiver to provide business-related advice in connection with certain transactions.

II. INITIAL ACTIVITIES

The Receiver's initial activities were primarily focused on the following matters:

a. One of the hedge fund investors in the Petters' entities, the Ritchie Group, obtained an ex parte order from the Cook County (Illinois) Circuit Court naming a representative of Ritchie as the Receiver for Petters Group Worldwide, LLC. The Receiver and his counsel spent considerable time during the first two weeks of the receivership resolving the jurisdictional issues presented by dual receiverships. This matter consumed significant time and energy at a time when the Receiver was also attempting to focus on stabilizing operations of the main Petters' entities.

b. The Receiver met or spoke daily with the remaining staff at the Petters' headquarters in Minnetonka in an attempt to:

1. stabilize businesses that were still operational;
2. identify entities that needed to be placed into bankruptcy proceedings immediately;
3. identify entities that should be sold or liquidated immediately;
4. identify assets that could or needed to be disposed of immediately; and
5. work with the United States Attorney's office on matters pertaining to the alleged fraud.

c. The Receiver spent considerable time opening new accounts under his name and removing previous signators from various operating accounts that had been frozen by prior Court's order.

III. BUSINESS TRANSACTIONS

The Receiver identified several of the Petters entities that needed to be liquidated or sold to prevent further deterioration of asset value. These transactions include the following:

a. Sale of Great Water Media. Great Water Media published several magazines, including one for Sun Country. The Receiver concluded that it was appropriate and in the best interest of the creditors of the various Petters entities that this operation be sold. The Receiver collected \$275,000 for the sale of the assets of this entity together with a 50% interest in the potential recovery, under an insurance claim submitted by Great Water Media.

b. Business Impact Group. The sale of the assets of this entity were sold for \$550,000, and the sale was approved by the United States Bankruptcy Court for the District of Minnesota on December 10, 2008.

c. Zink Imaging. Zink Imaging is an entity that had been spun off from Polaroid Corporation after its acquisition by Petters in 2005. One of the Petters' entities owns approximately 44% of Zink Imaging. Zink Imaging is an important vendor to Polaroid Corporation. The Receiver was involved in negotiating a loan agreement between Zink Imaging and another current shareholder of Zink Imaging. The amount of the loan, \$5,000,000, enabled Zink Imaging to continue operations and to continue to supply Polaroid with product necessary for Polaroid's operations.

d. Central American Holdings. The Receiver obtained approximately \$4,000,000 by negotiating a forbearance and prepayment agreement with a Jamaican entity that borrowed money from Central American Holdings, a Petters controlled entity. Additional payments in the amount of approximately \$12,500,000 are expected to be received by the receivership over the next five months.

e. Elite Landings, Inc. Elite Landings, one of the wholly-owned subsidiaries of Petters Aviation, cancelled a contract with Airbus and obtained return of its deposit of \$9,500,000.

f. DIP Financing for MN Airlines LLC (Sun Country). The Receiver approved a loan in the amount of \$5,000,000 in the form of Debtor-in-Possession financing for Sun Country Airlines. This decision was subsequently approved by the United States Bankruptcy Court.

IV. OTHER ACTIONS TAKEN BY THE RECEIVER

During the first 60 days of his receivership, the Receiver has also been engaged in the following activities:

- a. Reducing the overhead at Petters Group Worldwide by laying off nonessential employees.
- b. Numerous meetings with attorneys from the United States Attorney's Office regarding asset recovery from individual defendants.
- c. Meetings with professionals retained for legal, business, and forensic accounting advice.
- d. Meetings with executives of Sun Country Airlines relating to its Chapter 11 filing and its ongoing business operations.
- e. Meetings with the Assistant United States Trustee for the District of Minnesota and attorneys for the Office of the United States Trustee relating to bankruptcy issues pertaining to bankruptcy filings of ten Petters' entities.
- f. Numerous meetings with Petters' creditors and their representatives.

V. INDIVIDUAL DEFENDANTS

On October 14, 2008, Douglas A. Kelley was appointed Receiver for all of the individual criminal defendants except Frank Vennes. The Receiver has taken the actions to preserve assets of the following individual defendants:

- a. Tom Petters

Tom Petters is the sole owner and President of Petters Company, Inc. (PCI). He is also the sole owner, Chairman and Chief Executive Officer of Petters Group Worldwide,

LLC (PGW). Petters has been incarcerated since October 3, 2008. Petters, PCI and PGW were indicted on December 1, 2008, and charged with wire fraud, mail fraud, conspiracy and money laundering. The Indictment also includes forfeiture allegations.

The Receiver took action to identify and assume control of all the assets owned by Tom Petters individually. Meetings were held with Petters' lawyers, who provided a listing of assets with information about cost basis, fair market values and encumbrances. Meetings have also been held with key PGW employees concerning real and personal property that is held by Petters individually. Third parties, including financial institutions that hold assets of Tom Petters have submitted reports to the Receiver.

The Receiver implemented procedures to secure, safeguard and maintain the Petters real and personal property. Locks have been changed where necessary to protect the property. Corporate offices in Minnesota and Florida have been videotaped. Likewise, the residences in Minnesota, Florida and Colorado have been videotaped. Safeguards have been implemented to control computer access to records.

The Receiver is currently securing independent valuations of the assets. Many of the Petters assets are encumbered. Expenses will not be paid with respect to the assets that have no equity. The Receiver will ask the Court to release those assets with no equity.

Criteria have been established to determine allowable personal living expenses. Expenses necessary to preserve and maintain assets with value, including debt service, real estate taxes, insurance, utilities and maintenance will be paid. Personal expenses will be allowed in accordance with the IRS National Collection Standards. The Receiver has

also recommended payment of the nanny expenses and day care expenses for two minor children. Furthermore, the Receiver has recommended that the children's mother be allowed to reside in a single residence under an Occupancy Agreement pending sale of the property.

The Receiver is in the process of selling assets having value. Three independent market appraisals of each parcel of real property are being obtained to determine fair market value. The Florida and Colorado properties have been listed for sale. The government has provided copies of its title searches and valuations with respect to some of the property.

The Receiver is selling personal property, including several luxury automobiles. Market appraisals will be obtained to determine fair market value. Alternatives for the sale of these automobiles will be presented to the Court.

The Receiver has opened a bank account for the proceeds of sales and other assets. Cash in Petters bank accounts and investment accounts are being transferred to the Receiver account. Securities held in the investment accounts will be liquidated and net proceeds transferred to the Receiver Account. Several of the Petters bank accounts and investment accounts have been pledged as security for loans. There have been some offsets that need further examination and scrutiny.

The Receiver met regularly with the government to discuss issues related to identifying and preserving assets. Weekly meetings are also held with key PGW employees to track incoming invoices, and to determine which bills to pay in relation to available cash on hand.

b. Deanna Coleman

Ms. Coleman has been interviewed regarding her current assets and her home was videotaped. Artwork, jewelry, cars, home furnishings and other personal property have been inventoried. All of her credit cards have been destroyed except for one which she was allowed to maintain for emergencies and a department store card which she needs for her employee discount. Those accounts are being monitored.

Bank accounts and investment accounts are being closed and the monies transferred to the Receiver/Coleman account. A family member delivered a check in the amount of \$1,060,000 to the Receiver to repay a loan from Coleman. The check was deposited in the Receiver/Coleman account, along with her 2007 federal and state income tax refunds.

Coleman's home, artwork, jewelry, and household furnishings need to be appraised and sold.

Coleman has a condo in Costa Rica. It needs to be appraised and sold.

Coleman has two cars. One leased and the other owned. The lease was prepaid through August 2009. The leaseholder will be contacted to determine if a refund can be made on the lease. The car will be returned to the leasing company. An appraisal will be obtained so that the second car can be sold.

Coleman owns stocks or units in various companies. Copies of the stock or unit Certificates have been provided to the Receiver. The values need to be determined and the stock sold.

c. Robert White

Mr. White has been interviewed regarding his current assets and his homestead and his wife's pre-marital home was videotaped including the taping of identified artwork, cars, home furnishings and other identified personal property. He remains living in his homestead.

His bank accounts have been closed and the funds forwarded to the Receiver/White account. A safety deposit box was examined and stock and unit certificates were removed and retained by the Receiver. White's Zink stock was sold for \$3 million and the funds transferred to the Receiver/White account. The other stock and units owned by White need to be valued and sold.

White has a 2005 Porsche 911, which is unencumbered. The Porsche has some minor damage. A repair estimate and appraisal of the car needs to be obtained to determine whether repairs will increase the value sufficiently to warrant repairs. The car will be sold.

It is unclear if there is any equity in the homestead. An appraisal needs to be obtained to determine if there is any equity or if the home should be allowed to go into foreclosure or released by the Receiver.

White has a 1991 Dodge Pickup that is not in running condition. White has a 2005 Honda Element, which needs to be appraised and sold.

White owns three boats. Appraisals will be made and the boats sold. If there is no the boat will be released.

White has identified several items that were his wife's pre-marital property including a house in Orono, a 2005 Volvo SC 90, and many household furnishings and

other small items.

d. James Wehmhoff

Wehmhoff is a 67 year old who resides with his wife in Plymouth MN. They have grown children. James Wehmhoff owns homestead property. Video taping of the home was scheduled but cancelled due to the health conditions of Mrs. Wehmhoff. The taping is being rescheduled. The home needs to be appraised and sold.

Wehmhoff owns a cabin in Aitkin, Minnesota. The property needs to be appraised and sold.

Wehmhoff had multiple bank accounts which were closed and the monies transferred to the Receiver/Wehmhoff account. His investment accounts are in the process of being liquidated and the funds transferred to the Receiver/Wehmhoff account. Additional retirement and investment accounts are in the process of being liquidated.

Wehmhoff started a company with his wife and children. The company purchases distressed personal residences and updates, remodels, and sells the residences. As with the homestead, videotaping was scheduled but cancelled and is being re-scheduled.

During his association with Petters, Wehmhoff obtained securities in several Petters entities. The stocks are being valued and sold.

Wehmhoff currently has two cars in his possession. Both cars need to be appraised and sold.

Wehmhoff has several recreational vehicles. Appraisals will be obtained and these recreational vehicles sold.

e. Michael Catain

Catain is married. He and his wife have two sons. The younger is completing his first semester of his sophomore year at a local private university.

Certain bank accounts were liquidated and approximately \$1.1 million dollars was placed in the receivership account.

Catain owns three houses; two in MN and one in Costa Rica. Two of these homes have equity. The Receiver is paying necessary expenses to preserve these assets until they are sold.

Catain owns a condominium in downtown Minneapolis. It has a mortgage against it. The Receiver will assess the fair market value and decide whether to release this property or sell it.

Catain owns a car wash in Excelsior, Minnesota. This car wash is for sale and a buyer has come forward with an offer. The Receiver is weighing the offer and will decide shortly whether to request the Court's permission to sell.

Catain owns what could be called "record companies." The primary assets in these companies are two "catalogs" of music. The Receiver is attempting to value the property for sale.

Catain owns a Bentley automobile. This car needs to be appraised and sold.

Catain has a boat that needs to be appraised and sold.

f. Larry Reynolds

Reynolds was interviewed. Bank stock accounts were located and liquidated with the proceeds being placed in the receivership account. Additional bank accounts are in the process of being liquidated.

Reynolds owns two homes, one in California and one in Nevada. Both homes have substantial equity and will be sold.

Reynolds owns two luxury automobiles, a 2007 Bentley and a 2004 Ferrari. These cars need to be appraised and sold.

Reynolds has an interest in at least three limited partnerships. The assets of the partnerships consist primarily of land or other real estate. The Receiver is in the process of attempting to sell Reynolds' interest in these entities to other limited partners.

Reynolds owned artwork, including paintings done by Tony Curtis. The art needs to be appraised and sold.

Dated: December 22, 2008

Respectfully submitted,

s/Douglas A. Kelley
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