

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
Civil No. 08-5348 (ADM/JSM)

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
1. THOMAS JOSEPH PETTERS;)
PETTERS COMPANY, INC., aka)
PCI; PETTERS GROUP WORLDWIDE, LLC;)
2. DEANNA COLEMAN aka DEANNA MUNSON;)
3. ROBERT WHITE;)
4. JAMES WEHMHOFF;)
5. LARRY REYNOLDS dba)
NATIONWIDE INTERNATIONAL RESOURCES)
aka NIR;)
6. MICHAEL CATAIN dba)
ENCHANTED FAMILY BUYING COMPANY;)
7. FRANK E. VENNES JR., dba)
METRO GEM FINANCE,)
METRO GEM INC.,)
GRACE OFFERINGS OF FLORIDA LLC,)
METRO PROPERTY FINANCING, LLC,)
38 E. ROBINSON, LLC,)
55 E. PINE, LLC,)
ORLANDO RENTAL POOL, LLC,)
100 PINE STREET PROPERTY, LLC,)
ORANGE STREET TOWER, LLC,)
CORNERSTONE RENTAL POOL, LLC,)
2 SOUTH ORANGE AVENUE, LLC,)
HOPE COMMONS, LLC,)
METRO GOLD, INC.;)
)
Defendants.)

SPECIAL REPORT OF RECEIVER

Douglas A. Kelley, the undersigned Receiver, submits this special report to inform the Court of recent actions taken by defendants Thomas Petters, Michael Catain and Deanna Coleman that appear to have violated the spirit and the letter of the Court's injunction, asset freeze and asset turnover orders. The specific incidents and the Receiver's actions to investigate and respond to each of them are described in greater detail below.

A. Tom Petters Fails to Disclose \$50,000 Cash Withdrawal and Directs Payments to Friends and Relatives.

One of the assets under the receivership umbrella is the Tam O'Shanter Lodge and Conference Center located on Lake Superior in Cornucopia, Wisconsin. The lodge is 100% owned by Tam O'Shanter Lodge, LLC, which, in turn, is 100% owned by Tom Petters, individually. Tam O'Shanter conducts business as an operating lodge and conference center. The business is operated by Tom Petters' brother-in-law. Tam O'Shanter maintains a business account at a bank in Wisconsin.

On or about October 2, 2008, one day before the temporary restraining order covering Tom Petters' personal assets was entered, Tom Petters' brother and sister asked the Tam O-Shanter manager to withdraw \$50,000 from the business account and deposit the funds in the manager's personal bank account. Mr. Petters never disclosed the existence of this account or his access to the business funds as part of the asset-disclosure information he provided pursuant to the Court's order.

Instead, at various times between October 10, 2008 and January 13, 2009, Thomas Petters directed his brother-in-law to make cash payments to friends and relatives and to

transfer funds to an account used to pay for Mr. Petters' personal expenditures and telephone calls from jail. Pertinent expenditures directed by Mr. Petters include the following:

- C \$1,000 to a brother of Mr. Petters girlfriend, Tracy Mixon on October 27, 2008
- C \$2,000 to Ms. Mixon on November 3, 2008
- C \$460.50 to Mr. Petters' jail-services account on November 11, 2008
- C \$2,000 to Ms. Mixon on December 17, 2008
- C \$310.50 to Mr. Petters' jail-services account on December 22, 2008
- C \$600 to the boyfriend of Mr. Petters' daughter to buy his daughter a Christmas present on January 5, 2009
- C \$3,500 to Ms. Mixon on January 13, 2009.

Mr. Petters had requested payment of living expenses in favor of Ms. Mixon during prior proceedings heard and decided by this Court on December 16, 2008. The Receiver opposed such payments and the Court specifically denied the request. By directing payments to Ms. Mixon after the date of the Court's order, Mr. Petters appears to be affirmatively attempting to circumvent the Court's explicit direction.

The foregoing expenditures were investigated and confirmed by an investigator working for Kelley & Wolter, P.A., who formerly worked as a supervisor and a revenue agent for the Internal Revenue Service. The Tam O'Shanter manager has been instructed not to make additional expenditures from the account and has agreed to transfer the remaining funds on deposit to the Receiver.

B. Michael Catain Attempts to Remove Fixtures and Personal Property From His Home and Skims Money from His Car Wash Business.

Prior to the receivership appointment, Michael Catain owned and operated the Bay Car Wash in Excelsior, Minnesota. As one of Catain's personal assets, the car wash business falls under the Receiver's responsibility and control pursuant to the Court's prior orders. Shortly after his appointment, representatives of the Receiver inventoried the business and determined that the value of the car wash would be maximized by its continued operation pending the Receiver's efforts to market and sell the operation. The Receiver determined that Mr. Catain was the person best suited to continue to operate the car wash pending its sale.

By their very nature, car wash businesses generate a large number of cash sales. In late December, the Receiver obtained information that Mr. Catain may be skimming cash from the car wash operation. An investigator employed by Kelley & Wolter, P.A.—who formerly served as a criminal investigator for the Internal Revenue Service-Criminal Investigation Division (IRS-CID)—promptly looked into the alleged theft.

The investigator began by examining bank records documenting all deposits made into the car wash's bank account. For the period November 17, 2008 to January 2, 2009, a total of \$55,200 was deposited. Of this sum, \$1,067.00 was in the form of cash, \$6,578.23 came from checks, and the remaining \$47,500.00 consisted of credit card transactions.

The investigator next obtained and analyzed the original cash register tapes from Bay Car Wash for the same period of time. The tapes provide daily summaries of cash sales as

well as those amounts rung up for payments by check and credit card. According to the tapes, \$14,927.20 in cash was received by the car wash during the relevant time period. Subtracting the \$1,067.00 in cash deposited at the bank leaves a shortfall of \$13,860.20.

Catain was present when the Receiver's investigator demanded and obtained the original cash register tapes. When the investigator contacted Catain to confront him about the missing money, Catain checked himself into the hospital, complaining of a stroke. Catain has since acknowledged, through his attorney, that he took the missing cash. He has returned \$4,167 in cash to the Receiver, stating that is all that remains from his self-described "skim." Catain admits that he spent the rest of the missing money on bills and other personal items.

The car wash incident was not the first time that the Receiver encountered missing assets at the hands of Mr. Catain. The Receiver is also currently marketing Catain's personal residence. The high-end home contains a number of expensive fixtures and furnishings, all of which represent assets within the receivership estate that are subject to the Receiver's control.

Shortly after the Receiver's appointment, the aforementioned investigator inspected the premises and inventoried the contents of the home. Some time thereafter, the investigator returned to the home and discovered that several fixtures, including expensive chandeliers, had been removed. Several large televisions and a home gym were also gone. The investigator contacted Catain's attorney and demanded return of the missing property.

Catain has only partially complied and has returned some, but not all, of the missing items.

C. Deanna Coleman Fails to Disclose and Turn Over Timberwolves Tickets and Other Personal Property.

The Receiver recently received a report that Deanna Coleman had been observed sitting courtside at a Timberwolves basketball game. An attorney working with the Receiver's office contacted Ms. Coleman to investigate. Ms. Coleman admitted having and using season tickets she had purchased prior to the receivership. She promptly complied with the Receiver's demand to return the tickets. The tickets are assets falling within the purview of the Court's prior orders demanding turnover to the Receiver.

Coleman informed the Receiver's representative that she had given two tickets for an upcoming game to a friend. Coleman gave the remaining tickets from her season-ticket package to the Receiver on January 12, 2009. The packet included court side seats for Section 100, Row A, seats 78 and 79 along with valet parking vouchers and vouchers for the Premier Club. The single-game face value of each ticket is \$800. Coleman vowed to obtain and return the remaining two tickets but has yet to provide them to the Receiver.

During conversations with the Receiver's representative, Ms. Coleman admitted that the tickets were assets that she should have disclosed and turned over to the Receiver. Ms. Coleman explained that her nondisclosure was the product of accident or negligence, stating she "just forgot" the missing items. Ms. Coleman has since voluntarily amended her disclosure statement to identify other additional personal property that had not been

previously disclosed. Among the additional disclosures are two cashier's checks totaling more than \$88,000 as well as a diamond pendant and bracelet. Ms. Coleman has provided the Receiver with \$50,000 of the missing funds and has agreed to promptly turn over the additional cash and property to the Receiver.

All of the foregoing information has been provided to the United States Attorney's Office. The Receiver will continue to investigate all defendants' compliance with the Court's orders, monitor the outcome of any proceedings concerning the defendants' release status, and will consider whether any further action before this Court is necessary.

Respectfully submitted,

KELLEY & WOLTER, P.A.

Dated: January 22, 2009

s/Douglas A. Kelley
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