

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

Case No. : 6:16-CV-02123-Orl-31DCI

v.

J. WILLIAM ENTERPRISES, LLC, a Florida
limited liability company, also d/b/a PRO
TIMESHARE RESALES;

PRO TIMESHARE RESALES OF FLAGLER
BEACH, LLC, Florida limited liability company;

JESS KINMONT, individually and as an officer
of J. WILLIAM ENTERPRISES, LLC and PRO
TIMESHARE RESALES, LLC;

and

JOHN P. WENZ, JR., individually and as an
officer of PRO TIMESHARE RESALES OF
FLAGLER BEACH, LLC,

Defendants.

SIXTH INTERIM REPORT OF RECEIVER BRIAN A. MCDOWELL

(covering the period from April 29, 2017 through May 26, 2017)

Brian A. McDowell, as Permanent Receiver (“Receiver”) of J. William Enterprises, LLC (“JWE”) and Pro Timeshare Resales of Flagler Beach, LLC (“Pro Timeshare Flagler”) (JWE and Pro Timeshare Flagler are collectively referred to as the “Receivership Defendants”), and pursuant to this Court’s Order dated January 4, 2017 (Doc. No. 61), by and through his undersigned counsel, files this Sixth Interim Report of Receiver (“Sixth Report”).

I. ACCOUNTS, RECEIPTS, AND DISBURSEMENTS.

The Receiver's total receipts to date and disbursements for the period of April 29, 2017 through May 26, 2017, are as follows:

Total Receipts:	\$ 2,311,892.14
Disbursements from all Prior Periods:	\$ 263,888.86
Disbursements for Period of April 29, 2017 through May 26, 2017:	\$ 1,249.03
Current Balance:	\$ 2,046,754.25

An itemization of disbursements for the period covered by this Sixth Report is attached as **Exhibit A**¹.

II. RECEIVER'S ACTIVITIES

a. Observation of the FTC's Deposition of the Corporate Representative of JWE

On May 10, 2017, the FTC conducted the continued deposition of Defendant Jess Kinmont ("Kinmont") in his capacity as the corporate representative of JWE. Counsel for the Receiver attended the deposition solely to observe any testimony regarding assets of the Defendants that should be recovered for the benefit of the receivership estate. Receiver reserved the right to conduct his own depositions of the Defendants regarding the scope of the receivership estate and the recovery of additional assets.

¹ Seaside Account Number xxxxxx0309 related to JWE and Kinmont, and Seaside Account Number xxxxxx7799 related to Pro Timeshare Flagler and Wenz (collectively, the "Receivership Accounts").

b. Review and Response to Defendant Wenz’s Motion for Release of Untainted Assets

During the period covered by this Sixth Report, the Receiver reviewed Defendant John P. Wenz, Jr. (“Wenz”)’s Motion for Release of Untainted Assets (the “Motion”) (Doc. No. 113), including the accompanying affidavit of Paulette Smith (“Smith”). The Receiver prepared and filed a Response to the Motion (Doc. No. 119) in order to identify which assets may be “tainted” or “untainted.” Receiver opposed the relief sought in the Motion to the extent either (1) the identified asset was used in or was the proceeds of the business, or (2) the evidence presented to date was insufficient for the Receiver to make a determination that the identified asset is “untainted.” The Court has set the Motion for hearing on Monday, June 26, 2017 at 1:30 p.m. The Receiver intends to depose Wenz and Smith in advance of the hearing.

c. Data Analysis and Review at JWE’s DeLand Location

During the period covered by this Sixth Report, counsel for the Receiver traveled to JWE’s DeLand Location to meet with a former JWE employee, Cathy Bernish-Jones (“Bernish-Jones”). During these meetings, Bernish-Jones assisted Receiver’s counsel with obtaining and reviewing electronic and hard copy data related to the business of the Receivership Defendants, including but not limited to employee lists, client lists, cancellations and chargebacks, and client history reports. Counsel for the Receiver provided a copy of the information obtained with the assistance of Bernish-Jones to all parties.

d. Continued Preservation and Recovery of Assets of the Estate

The Receiver is continuing to preserve the real property, physical assets, and electronically stored data of the Receivership Defendants. The Receiver intends to maintain the Receivership Defendants' former office properties through the pendency of the Receivership, and continues to store the office equipment and other business related assets at those office properties at no charge to the estate.

The Receiver is also still in the process of obtaining and reviewing the financial records of the Receivership Defendants for the potential recovery of additional assets. If, upon review of all of the information available, the Receiver discovers any transfers that may be susceptible to avoidance actions, the Receiver will consider whether the pursuit of such actions would provide a material benefit to the Receivership Estate in light of the cost to the estate to seek avoidance of the transfers.

Dated this day 26th day of May, 2017.

Respectfully submitted,

/s/ Robert W. Davis

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Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May, 2017, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF System, which will send electronic filing to all counsel of record.

/s/ Robert W. Davis _____

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JWE Account History				
DATE HONORED	DESCRIPTION	DEPOSITS	WITHDRAWALS	BALANCE
	Beginning Balance as of April 29, 2017			\$2,031,216.94
5/5/2017	Check to Duke Energy		\$68.73	\$2,031,148.21
5/8/2017	Check to Wells Fargo (fee for production of documents)		\$40.00	\$2,013,108.21
5/10/2017	Check to Cathy Bernish-Jones (assistance to Receiver and counsel)		\$195.00	\$2,030,913.21
5/16/2017	Check to Cathy Bernish-Jones (assistance to Receiver and counsel)		\$395.64	\$2,030,517.57
5/22/2017	Check to Spectrum Business (formerly Bright House Networks)		\$304.26	\$2,030,213.31
Pro Timeshares Flagler Account History				
DATE HONORED	DESCRIPTION	DEPOSITS	WITHDRAWALS	BALANCE
	Beginning Balance as of April 29, 2017			\$16,786.34
5/8/2017	Check to ADT Security Services		\$46.74	\$16,739.60
5/10/2017	Check to City of Bunnell, Florida - Utilities		\$136.08	\$16,603.52
5/16/2017	Check to Florida Power and Light		\$62.58	\$16,540.94
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