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*Attorneys for Court-appointed Receiver,
Diane A. Thompson*

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**AMERICAN PENSION SERVICES, INC.,
a Utah Corporation and CURTIS L.
DeYOUNG, an individual,**

Defendants.

**FIFTEENTH QUARTERLY STATUS
REPORT OF RECEIVER**

Case No.: 2:14-CV-00309-RJS-DBP

**Judge Robert J. Shelby
Magistrate Judge Dustin B. Pead**

Diane Thompson, Court-appointed Receiver (“Receiver”) for Defendants, American Pension Services, Inc. and Curtis L. DeYoung (“Curtis”) and related entities, by and through her

counsel of record, Ballard Spahr LLP, hereby submits the Fifteenth Quarterly Status Report of Receiver as of December 31, 2017.

1. Introduction

On April 24, 2014, the Court appointed Diane Thompson as Receiver of American Pension Services, Inc. and any related entities owned, controlled, or under common control by or through American Pension Services, Inc. and all assets of Curtis L. DeYoung (collectively referred to as “Receivership Defendants”). *See* Order Appointing Receiver, Freezing Assets, and Other Relief 1–3 (Dkt. 9) (hereinafter “Receivership Order”). These entities include American Pension 401K Services, Inc. (“APS 401K” or “AP4S”); LJP, LLC; Interim Funding LLC; First Silverado Properties, LLC; LIC Environmental; and Quicksilver Management, LLC. *Id.* American Pensions Services, Inc. and related entities owned, controlled, or under common control of American Pension Services, Inc. are collectively referred to as APS.

The Court found the appointment of a Receiver was necessary to “marshal[] and preserv[e] all assets” of the Receivership Defendants (“Receivership Assets”) as well as “the assets of any other entities that: (a) are attributable to funds derived from investors or clients of the Defendants; (b) are held in constructive trust for the Defendants; (c) were fraudulently transferred by the Defendants; and (d) may otherwise be includable as assets of the estates of the Defendants.” Receivership Order, at 1–2.

The Receiver, with approval from the Court, engaged Ballard Spahr LLP as legal counsel to the Receiver, Piercy Bowler Taylor & Kern (“PBTk”) as forensic accountants, Precision Discovery, Inc. as forensic information technology specialists, Richards Brandt Miller Nelson as

insurance coverage counsel, Orange Document Services¹ to perform forensic computer services, Gary Free as an independent appraiser, and Jonathan Cook as an independent appraiser. *See* First Quarterly Report of Receiver 1–2 (Dkt. 169); Order Granting Motion to Retain Gary Free as Appraiser (Dkt. 208); Order Granting Motion to Retain Jonathan Cook as Appraiser (Dkt. 639). The Receiver is required to “file and serve a full report and accounting of each Receivership Estate . . . reflecting (to the best of the Receiver’s knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and . . . the extent of liabilities . . . of the Receivership Estates” within thirty days of the end of each quarter. Receivership Order, at 22.

The quarterly status report must contain: (1) a summary of the operations of the Receiver; (2) the amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate; (3) a schedule of all the Receiver’s receipts and disbursements with one column for the quarterly period covered and a second column for the duration of the Receivership;² (4) a description of all Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended; (5) a description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic or investigatory resources, the approximate valuation of these claims, the anticipated or proposed method of enforcing these

¹ Orange Legal Technologies was acquired by Xact Data Discovery Company, after which the name was changed to Orange Document Services.

² The Receiver operates three accounts within APS, two of which have been combined. These accounts are discussed in more detail in Section IV, with copies of the Receiver’s Receipts and Disbursements attached as Exhibits A and B.

claims, and the likelihood of success of the claims; (6) a list of known creditors with their addresses and the amounts of their claims; (7) the status of creditor claims proceedings; and (8) the Receiver's recommendation for continuing or discontinuing the Receivership with reasons for the recommendation. Receivership Order, at 22–23.

This Fifteenth Quarterly Status Report is submitted to the Court in compliance with the Receivership Order for the period of October 1, 2017 to December 31, 2017 (“Reporting Period”).

2. Directions to Receiver

The Receivership Order provides detailed directions and instructions to the Receiver regarding the Receivership Estate. The Receivership Order also grants the Receiver the authority and power to act while managing the Receivership Estate. A copy of the Receivership Order is available as ECF No. 9 in this case.

3. Current Operations of Receiver

The Receivership continues to be unique and complicated, as the Receiver focuses on executing the plan for distribution of recovered funds, and winding up the Receivership. The Receiver was faced with the task of marshaling Receivership Assets, in addition to taking over, managing, determining, and allocating the loss created by Curtis DeYoung, and transitioning the business of providing third-party administrative services to over 5,500 clients with self-directed individual retirement accounts (“IRAs”) or 401(k) accounts.³ The purported value of the assets of APS client accounts as of April 25, 2014 was in excess of \$350 million.⁴

³ On April 25, 2014, APS and AP4S served as administrator to approximately 5,400 self-directed IRA and over 300 401(k) accounts. As the Receiver implemented her Amended Modified Plan

The day-to-day operations of APS have ceased and the Receiver has completed the collection and sale of Receivership Estate assets. On November 30, 2017, the Court held a hearing to consider the Receiver's Renewed Motion for Summary Judgment in which she requested the Court award her with the entire \$1 million policy proceeds from a Chubb Errors and Omissions policy issued to APS. After the hearing, the Court granted the Receiver's Motion and awarded the entire \$1 million policy to the Receiver. The deadline for an appeal of the Order granting the Receiver's Renewed Motion ran on January 22, 2018, after which time the Receiver was in a position to make a distribution of her recoveries to the APS clients holding a Contingent Repayment Agreement ("CRA").⁵

The Receiver completed all noticing requirements for her proposed Plan of Distribution, and responded to hundreds of calls and emails from clients with questions about the proposed Plan. The Receiver responded to every objection received and filed a formal response to all objections with the Court. The Court held a hearing to consider the proposed Plan of Distribution on December 19, 2018 where interested parties had an opportunity to be heard. On December 21, 2017, the Court issued an order approving the proposed Plan of Distribution. The

of Liquidation, these numbers have significantly decreased. During this Reporting Period, the Receiver has moved all accounts out of APS and no further accounts remain.

⁴ APS IRAs had in excess of \$350 million in assets, while AP4S 401(k)s had in excess of \$35 million in assets.

⁵ After this Reporting Period, on January 26, 2018, the Receiver made her distribution payment to all APS clients holding a CRA. This distribution is the only payment the Receiver will make to the APS clients holding a CRA, and the details of the distribution will be provided in a final report to be filed with the Court.

Receiver and her staff held numerous calls with Equity Trust and PBTK in preparation for the distribution payment.

During the Reporting Period, the Receiver collected the loss allocation from and distributed or assigned out of APS the four remaining client accounts. The Receiver collected an additional \$101,175.51 in loss allocation during this Reporting Period. As of December 31, 2017, the Receiver has transferred, distributed or terminated all of the 5,664 accounts.

As part of the transfer of accounts, a client's loss allocation is documented by a Contingent Repayment Agreement ("CRA") issued to the account or client, depending on how the client paid their loss allocation. The CRA is similar to a promissory note, and represents the amount a client has paid to fund his or her loss allocation.⁶ The Receiver used the amounts listed on the CRAs to make a distribution to the clients on a pro-rata basis as set forth in the Plan of Distribution. At the end of the Reporting Period, the total administrative fees were not yet known and the amount of Receivership Assets available for distribution were also unknown pending the expiration of the time period for an appeal. Thus, the best estimate of the value of the CRA as of December 31, 2017, was the amount of each client's contribution to the loss allocation under the Plan of Liquidation. Many clients have requested that the Receiver revalue the CRA in order to reduce the amount of their account total. The Receiver does not believe it is appropriate to make an adjustment to the value of the CRA until after the Receiver has distributed the recovery amounts to clients pursuant to the Plan of Distribution.

⁶ In accordance with this Court's ruling on August 7, 2015, the Receiver issued the CRA to some clients individually, as they are ineligible to contribute to their retirement account or have otherwise funded their loss allocation from funds sourced outside of their retirement account. (Dkt. 592).

The Receiver continues to update the Receivership website (www.apsreceiver.com) in an effort to keep all APS clients informed of key events affecting the Receivership. The website is updated with Court filings and frequently asked questions as necessary. The Receiver posted six (6) pertinent court documents during this Reporting Period: (1) Notice of the Proposed Plan of Distribution to APS Account Owners; (2) Notice of the Proposed Plan of Distribution to APS Creditors; (3) Receiver's Fourteenth Quarterly Status Report; (4) Receiver's Memorandum in Response to APS Client Responses and Objections to Proposed Plan of Distribution; (5) Order Following Oral Ruling on Receiver's Renewed Motion for Summary Judgment in the *Federal Insurance Co. v. Thompson* matter; and (6) Order Granting Receiver's Plan of Distribution. Additionally, the Receiver posted updates regarding the timeframe for a distribution. After the Reporting Period, in January 2018, the Receiver posted notice of her distribution, answers to frequently asked questions, and other information pertinent to the distribution.

The Receiver continues to receive calls and e-mails from clients indicating that there are problems with their accounts after transfer to Equity Trust. The most common issues involve the issuance of tax form 1099 and the registration of real property assets at Equity Trust. The Receiver and her staff continue to hold periodic conference calls with Equity Trust to resolve these issues.

The transfer of accounts from APS to Equity Trust required that all assets previously titled in the name of APS for the benefit of the client be re-registered to reflect ownership in the name of Equity Trust for the benefit of the client. The Receiver executed a limited power of attorney that allows Equity Trust to re-register client assets without the direct involvement of the

Receiver and has amended and extended the power of attorney in anticipation of the completion of the Receivership.

Equity Trust tracks re-registration in two categories: started and complete. Started means Equity Trust has provided sufficient documentation to a third-party to complete re-registration. Equity Trust does not treat the re-registration as complete until they have received confirmation that the third-party has changed the registration. As of December 31, 2017, re-registration is complete for 5,500 of the 5,648 accounts transferred to Equity Trust. Equity has committed to re-registrations on the remaining assets as soon as practicable.

The Receiver has terminated the APS Employee's 401(k) Plan. Most of the employees have requested and received distributions of their Plan assets and the remaining participant distributions of non-traditional assets are in progress. Once all distributions are made, the Receiver must file required final tax filings, which include Forms 5500 for the years 2017 and 2018. The Receiver received questions from the DeYoung daughters regarding purported problems with Equity Trust concerning their APS employee 401(k) plans which were transferred to Equity Trust. The Receiver and her staff investigated these issues, held calls with Equity Trust, and are preparing a response to address these questions and concerns.

The Receiver and her staff continue to hold the operating files of APS, and closed client files. The computer systems utilized at APS are maintained with the Receiver, whose staff continues to utilize those APS computer systems to complete the Plan of Distribution.

The Receiver is in the process of preparing IRS Form 1099-R due at the end of January for any final 2017 client account distributions.

First Utah Bank has tendered its resignation as the custodian of remaining accounts to the Receiver. First Utah Bank has agreed that the resignation shall not be effective until there is a mutual agreement with the Receiver concerning the resignation and an order from the Court releasing APS as administrator and First Utah Bank as custodian. On January 24, 2018, the Receiver submitted the Notice of Resignation of First Utah Bank as Custodian and Termination of Custodial Services Agreement to the Court.

The Receiver worked with the Securities and Exchange Commission to complete the Consent to Entry of Final Judgment as to APS, which the SEC filed on January 23, 2018. Additionally, the Receiver worked to inventory and store all documents to be retained for the required time period.

Curtis is incarcerated in federal prison. As part of his sentence, Curtis was ordered to pay restitution of \$24,998,422.65 to the victims of APS. The Receiver and her counsel have conducted meetings with the SEC and U.S. Attorney's office to discuss and coordinate the treatment of and distribution to victims of any restitution payments made by Curtis. The Receiver has or will credit all recoveries to date to Curtis's restitution balance. This amount totals \$8,472,612.00 as of the end of the Reporting Period. The Court Clerk will remit to the Receiver any restitution from Curtis until the close of the Receivership. Curtis was ordered to pay the greater of \$25.00 per calendar quarter or 50% of his income while incarcerated. If he receives more than \$200.00 from any outside source in any calendar month during the period of incarceration, all funds received will be paid toward restitution. Upon release from incarceration, Curtis was ordered to pay a minimum of \$250.00 per month towards restitution. The Receiver has allocated and distributed restitution funds to the victims pursuant to the

proposed Plan of Distribution. Any remaining funds held by the Receiver at the close of the Receivership will be turned over to the Clerk of Court for distribution. As set forth in the Plan of Distribution, when the Receivership closes, the Receiver will provide the Court Clerk with a list of victims, their addresses, and related loss as well as an accounting of funds she has distributed to victims. The Court Clerk will then take over the process of disbursing any future restitution to victims.

4. Assets Uncovered or Sold During Reporting Period

The Receiver has completed her efforts to collect outstanding administrative and management fees owed to APS. The Receiver engaged Express Recovery to collect remaining outstanding management fees. The Receiver's contract with Express Recovery did not increase the administrative costs of the Receivership because Express Recovery is paid a portion of the amounts it successfully collected. During this Reporting Period, Express Recovery collected \$150.00 in past due fees. When added to collection efforts previously reported, Express Recovery collected a total of \$34,370.25 in management fees for the Receivership and cancelled a total of \$353,067.23 (due to bankruptcies and other required reasons). Express Recovery advised the Receiver that it has exhausted all reasonable efforts any remaining management fees are no longer collectible, and the Receiver terminated their services.

As noted in prior reports, the Receiver also assigned to Express Recovery the collection of APS judgments as noted on a list provided by Michelle DeYoung to the Receiver in connection with the parties' settlement agreement. Michelle provided a one-page summary sheet for each of approximately fifty (50) outstanding judgments and settlements in favor of APS. Many of these judgments have expired. Express Recovery collected \$0 from these judgments

and cancelled a total of \$2,038,345.89 (due to bankruptcies and other required reasons). Express Recovery advised the Receiver that it has exhausted all reasonable avenues for additional collections, and that it does not believe these accounts to be collectible. Accordingly, the Receiver terminated Express Recovery's services.

The Receiver also investigated potential stock belonging to APS as indicated by Michelle DeYoung. Ms. DeYoung provided the Receiver with a list of companies for which APS purportedly owned stock, and the number of shares purportedly owned by APS of each stock, but did not provide any stock certificates or other information. The Receiver investigated and concluded none of the stock was held by APS, or that the stock has no value because the company fails to exist, or did not issue stock to the public, among other reasons.

The Receiver has now completed sale or collection of all APS/Curtis DeYoung assets. See Summary of Assets, attached as Exhibit C.

5. Insurance, Tax Refunds, and Other Claims of Receiver

In previous Quarterly Status Reports the Receiver reported on tax refunds and insurance claims.

The Receiver's claim on APS's Chubb "PRO E&O" errors and omissions policy issued by the Federal Insurance Company with policy limits of \$1 million has been adjudicated in favor of the Receiver. On January 7, 2016, Federal Insurance Company filed its Complaint in Interpleader and for Declaratory Relief in *Federal Insurance Company v. Thompson, et al.*, No. 2:16-cv-00023 (D. Utah Jan. 7, 2016) (Dkt. 2) seeking to interplead the full policy limits of \$1,000,000.00 with the Court. The Receiver, Curtis, and Michelle DeYoung all sought policy proceeds. On April 4, 2017, the Court entered an order granting Federal Insurance Company's

oral motion to dismiss it from the case, with additional stipulations by Federal, and ordered Federal to deposit the full policy limits of \$1 million with the Court. (Case No. 2:16-cv-00023, Dkt. 58). The Receiver engaged in settlement discussions with Curtis's attorneys regarding the policy proceeds to no avail. The Receiver filed a Renewed Motion for Summary Judgment on May 19, 2017. On November 30, 2017, the Court granted the Receiver's Motion for Summary Judgment and awarded \$1 million to the Receiver. As of the end of the Reporting Period, the Receiver awaited the expiration of the appeal period, which ran on January 22, 2018. Following that date, the Receiver dispersed the funds to APS clients holding a CRA per the Plan of Distribution on January 26, 2018. The details of the distribution will be included in the Receiver's final report.

6. Distributions to Clients and Creditors

As noted above, following the deadline for an appeal of the order granting the Receiver's Renewed Motion for Summary Judgment and order approving the Plan of Distribution (which deadline was January 22, 2018), the Receiver made a distribution to all APS clients holding a CRA on January 26, 2018, the details of which will be included in the Receiver's final report.

The treatment of Creditors is discussed in the Plan of Distribution approved by the Court. At the time of this filing, sufficient funds have been recovered to make a distribution to clients to cover a portion of the loss caused by Curtis's misappropriation of approximately \$25 million. There are not sufficient funds to cover the claims of creditors and no funds will be distributed to them pursuant to the approved Plan of Distribution. A list of creditors is attached hereto as Exhibit D.

7. Costs of Receivership

The costs of the Receivership have decreased but remain significant during the Reporting Period. The Receiver is striving to control costs and continues to make prudent cost-benefit decisions as she executes the Plan of Distribution and winds up the Receivership. Since the Court has approved the Receiver's Applications for Interim Compensation of Receiver and Professionals for Services, the Receiver has utilized amounts in excess of one month of operating expenses (which were approximately \$50,000.00) to cover a portion of Court-approved fees and expenses.

Through pursuit of the 10% loss allocation required from APS clients under the Plan of Liquidation, the Receiver has collected approximately \$31 million. This amount does not include management fees collected through the Receiver's operation of APS, sale of assets, or the First Utah Bank settlement proceeds. The proceeds and management fees collected will be used to cover the approximately \$24.6 million shortfall created by Curtis's misappropriation. Under the Plan of Liquidation, a portion of these unencumbered funds have been used to cover Court-approved fees and expenses; thus as of December 31, 2017, there was approximately \$5,268,724.33 in unencumbered funds combined in the Master Trust Account and APS operating account.

8. Disposition of Pending Litigation

The Receiver determined that as of April 25, 2014, APS was involved in a total of nine (9) separate lawsuits in California, Idaho, Washington, and Utah as either a plaintiff or defendant. The Receiver has resolved all nine (9) of these cases, the details of which were provided in prior quarterly reports.

The Receiver's staff ran searches on Utah state court and Federal court dockets to ensure no open cases remain stayed involving APS. The Receiver's staff investigated the remaining three (3) open cases discovered, in which APS is a named party. The Receiver is taking steps to obtain dismissals of each case.

The Federal Insurance Company interpleader lawsuit is discussed in section 5 above.

The Receiver has sought and will continue to seek a stipulated dismissal from Curtis DeYoung's counsel of her ancillary case against Mr. DeYoung so that the matter may be closed. After discussions with Curtis's counsel, on January 29, 2018, counsel agreed to sign the stipulated motion to dismiss. The Court granted the Joint Stipulated Motion to Dismiss and Request to Close the Case on January 31, 2018.

9. Cash on Hand, Expenses, Unencumbered Funds, Receipts, and Disbursements

APS business operations can be evaluated and broken into three categories. First, are revenue and expenses related to the day-to-day operations of APS. Second, are assets and expenses attributable to APS clients. Third, are assets and expenses related to APS 401(k) accounts. The Receiver transferred all APS 401(k) clients to Equity Trust in September 2015. The following is a breakdown of the revenue and expenses of all three categories, with a summary of related account balances.

APS Operations (Day-to-Day)

As of December 31, 2017, the Operating Account⁷ of APS was as follows:

⁷ The Operating Account is a combination of the operating accounts for APS and APS 401K; however, these accounts were maintained separately by the Receiver.

| | October 1, 2017 through <u>December 31, 2017</u> | <u>Receivership Cumulative</u> ⁸ |
|-------------------------------|--|---|
| Beginning Balance | \$261,508.55 | \$129,251.80 |
| APS Receipts ⁹ | \$7,480.45 | \$5,695,409.15 |
| APS Expenses | \$183,090.16 | \$5,738,762.11 |
| APS Operating Account Balance | \$85,898.84 | \$85,898.84 |

Attached as Exhibit A is a Summary of the Operating Cash Receipts and Disbursements of APS for the Reporting Period, as well as a cumulative report.

APS Master Trust Accounts

As of December 31, 2017, the APS Master Trust Account and related expenses, receipts, and disbursements are as follows:

| | October 1, 2017 through <u>December 31, 2017</u> | <u>Receivership Cumulative</u> |
|-------------------|--|------------------------------------|
| Beginning Balance | \$6,222,862.62 | \$25,962,173.24 |
| Receipts | \$187,035.76 | \$70,184,405.74 |
| Expenses | \$1,141,174.05 | \$90,877,854.65 |
| Balance | \$5,268,724.33 | \$5,268,724.33 |

⁸ This reflects the balance of the account at the beginning of the Receivership.

⁹ This amount represents business revenue generated from fees paid to APS in accordance with the APS clients' agreement in which First Utah Bank acted as custodian and APS served as third-party administrator.

Attached as Exhibit B is a Summary of the Operating Cash Receipts and Disbursements of the APS Master Trust Account for the Reporting Period.

APS 401K

As of December 31, 2017, the APS 401K Trust Account and related expenses, receipts, and disbursements are as follows:

| | October 1, 2017 through <u>December 31, 2017</u> | <u>Receivership Cumulative</u> |
|-------------------|--|------------------------------------|
| Beginning Balance | \$0.00 | \$3,842,908.62 |
| Receipts | \$0.00 | \$7,150,259.60 |
| Expenses | \$0.00 | \$10,993,168.22 |
| Balance | \$0.00 | \$0.00 ¹⁰ |

A Summary of the Operating Cash Receipts and Disbursements of APS 401K Account for the Reporting Period is combined with the APS Operations schedule, attached as Exhibit A.

10. Receivership Property

The Receiver has attached a Summary of Assets, its actual or estimated value, and the status of each asset as Exhibit C. There are no further APS client assets remaining at APS.

11. Creditors and Claim Proceedings

As noted in the proposed Plan of Distribution, six (6) parties submitted eight (8) proof of claims to the Receiver, of which six (6) proof of claims (submitted by four (4) creditors) were

¹⁰ The APS 401(k) Trust Account was closed on January 22, 2016.

deemed valid. The treatment of creditors approved by the Court is discussed on pages 10-12 of the Plan of Distribution and in section 7 above.

12. Liquidated and Unliquidated Claims.

The Receiver has determined all claims of the Receivership Estate are liquidated. A summary of the Receiver's ancillary actions and the resolution of those actions is included in section 8 above, in prior Quarterly Reports, and in the attached Exhibit C.

13. Receiver Recommends Continuation of the Receivership

As noted above, this is a complicated Receivership due to the nuances created by the APS clients, the tax qualified accounts, the numerous assets held in the client accounts, and the interplay with the Internal Revenue Code. The Receiver recommends continuation of the Receivership in order to complete the wind-up of the Receivership and the distribution of recoveries. Continuation of the Receivership will ensure the most favorable outcome for all APS clients as outlined in the Plan of Distribution approved by the Court. The Receiver anticipates filing her final report shortly.

To the best of my knowledge, the information presented in this Fifteenth Quarterly Status Report is a full report and accounting of the Receivership estate as of the end of the Reporting Period.

DATED this 31st day of January, 2018.

/s/ Melanie J. Vartabedian

Mark R. Gaylord, Esq.

Melanie J. Vartabedian, Esq.

Tesia N. Stanley, Esq.

Jeffrey D. Enquist, Esq.

BALLARD SPAHR LLP

*Attorneys for Court-appointed Receiver, Diane A.
Thompson*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of copy of the foregoing **FIFTEENTH QUARTERLY STATUS REPORT OF RECEIVER** was served to the following this 31st day of January, 2018, in the manner set forth below:

[X] Through the CM/ECF System for the U.S. District Court

[] Hand Delivery

[] U.S. Mail, postage prepaid

[] E-mail: olivera@sec.gov; #slro-docket@sec.gov; ahardenbrook@swlaw.com; docket_slc@swlaw.com; jpollard@swlaw.com; miller@millertoone.com; mahoney@millertoone.com; miller@ecf.inforuptcy.com; miller.blaked@gmail.com; moric@sec.gov; howe@millertoone.com; danny_quintana@yahoo.com; dleta@swlaw.com; wsmart@swlaw.com; dsbyers@hollandhart.com; bknoble@hollandhart.com; gdoctorman@parsonsbehle.com; ecf@parsonsbehle.com; ghofmann@cohnekinghorn.com; dhaney@cohnekinghorn.com; jthorsen@cohnekinghorn.com; jsteed@kmclaw.com; mglauser@kmclaw.com; jchandler@djplaw.com; cfrandsen@djplaw.com; judsonpitts@hotmail.com; judson@wimmerpitts.com; justin@hsblegal.com; krw@scmlaw.com; ec@scmlaw.com; intakeclerk@scmlaw.com; markjgregersen@hotmail.com; saltlakedocketclerk@ballardspahr.com; feindtp@sec.gov; pmoxley@djplaw.com; cwatters@djplaw.com; jadamson@kunzlerlaw.com; robert_hunt@fd.org; geri_wynhof@fd.org; utx_ecf@fd.org; steve@skclawfirm.com; jen@skclawfirm.com; sara@actionlawutah.com; tburns@djplaw.com; rpahnke@djplaw.com; speck@djplaw.com; utfedcourt@djplaw.com; mpugsley@rqn.com; rwing@rqn.com; bwride@rqn.com; EDonohue@hinshawlaw.com; ben@BBG-Law.com; jeff@cgsutahlaw.com; armand@hwmlawfirm.com; jerrym@mooneylaw.com; frank@fiber.net; Kristian@Beckettlegal.com

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- Exhibit A Summary of the Operating Cash Receipts and Disbursements of APS and APS 401(k)
- Exhibit B Summary of the Operating Cash Receipts and Disbursements of the APS Master Trust Account
- Exhibit C Summary of Receivership Assets
- Exhibit D Summary of Known Creditors

EXHIBIT A

AMERICAN PENSION SERVICES, INC. AND AMERICAN PENSION 401K SERVICES, INC.
Business Operating Cash Receipts and Disbursements
For the Period October 1, 2017 through December 31, 2017

| | Oct 1, 2017 through Dec 31, 2017 | Receivership Cumulative |
|---------------------------------|--|----------------------------|
| Beginning Cash Balance | \$ 261,508.55 | \$ 129,251.80 |
| Cash Receipts | | |
| Business Revenue | 150.94 | 3,628,110.87 |
| Draws from Related Companies | - | 57,742.13 |
| Sale of Property | - | 340,178.70 |
| Insurance Proceeds | - | 405,000.00 |
| Transition Services Fee | - | 1,050,000.00 |
| Legal Settlements | 7,329.51 | 214,377.45 |
| Total Cash Receipts | <u>7,480.45</u> | <u>5,695,409.15</u> |
| Cash Disbursements | | |
| Appraisal Fees | - | 7,365.00 |
| Auto Expense - Employee | - | 1,817.63 |
| Bank Charges | 37.50 | 65,502.65 |
| Building Rent | - | 67,793.46 |
| Comcast Internet Services | - | 2,661.11 |
| Computer Software | - | 5,558.34 |
| Computer Support Services | 990.00 | 29,200.48 |
| Contract Labor | - | 87,902.25 |
| Copier Expense | - | 3,383.76 |
| Credit Card Processing | - | 5,822.51 |
| Document Disposal | - | 2,598.64 |
| Employee 401(k) Program | - | 41,853.05 |
| Employee Comp.-401K Services | - | 104,678.20 |
| Employee Compensation & Taxes | - | 360,040.43 |
| Equipment Leases | - | 25,315.20 |
| General Telephone | - | 32,004.49 |
| Guard Services | - | 42,437.50 |
| Health Insurance | - | 33,251.08 |
| Insurance Expense | - | 6,921.75 |
| Interest Expense | - | 3,179.33 |
| Internet Research Fee | - | 451.00 |
| Legal Noticing | - | 143,535.09 |
| Licenses & Permits | - | 667.90 |
| Litigation Resolution | - | 1,673.33 |
| Meals & Entertainment | - | 5,487.86 |
| Mediation Services | - | 7,687.50 |
| Miscellaneous Operating Expense | - | 5,743.17 |
| Office supplies | - | 14,117.23 |
| Outside Contracting Services | - | 23,043.10 |
| Postage | 82.50 | 25,835.75 |

AMERICAN PENSION SERVICES, INC. AND AMERICAN PENSION 401K SERVICES, INC.
Business Operating Cash Receipts and Disbursements
For the Period October 1, 2017 through December 31, 2017

| | Oct 1, 2017 through Dec 31, 2017 | Receivership Cumulative |
|--------------------------------|--|----------------------------|
| Printing Expenses | - | 10,264.27 |
| Professional Services | - | 1,245.00 |
| Repairs & Maintenance | - | 11,961.33 |
| Storage | 1,483.46 | 19,863.20 |
| Taxes - Other | - | 3,556.13 |
| Taxes - Payroll | - | 3,400.00 |
| Travel Expense - Reimbursement | - | 552.97 |
| Utilities | - | 86.01 |
| Web Site Fees | - | 24,325.84 |
| Total Expenses | <u>2,593.46</u> | <u>1,232,783.54</u> |
| Extraordinary Expenses: | | |
| Receivership Fees and Expenses | 180,496.70 | 4,505,978.57 |
| Total Extraordinary Expenses | <u>180,496.70</u> | <u>4,505,978.57</u> |
| Total Cash Disbursements | <u>183,090.16</u> | <u>5,738,762.11</u> |
| Ending Cash Balance | <u>\$ 85,898.84</u> | <u>\$ 85,898.84</u> |

NOTES:

Note 1 - The above amounts are cash receipts and disbursements related to the business operations of American Pension Services, Inc. and American Pension 401k Services, Inc.

EXHIBIT B

AMERICAN PENSION SERVICES MASTER TRUST ACCOUNT**Cash Receipts and Disbursements****For the Period October 1, 2017 through December 31, 2017**

| | October 1, 2017 through December 31, 2017 | Receivership Cumulative |
|--|---|----------------------------|
| Beginning Cash Balance | \$ 6,222,862.62 | \$ 25,962,173.24 |
| Cash Receipts | | |
| Contributions for Loss Allocation - Note 1 | 107,256.19 | 6,754,901.95 |
| Contribution | - | 1,119,475.88 |
| Gain | - | 4,273,431.11 |
| Interest Payments | 649.54 | 7,262,720.95 |
| Principal Payments | 546.86 | 21,282,780.77 |
| Rent | - | 1,723,749.63 |
| Rollovers | - | 1,178,696.11 |
| Assets Sold | - | 18,030,647.34 |
| Direct Transfer In | - | 2,186,306.37 |
| Dividends | - | 44,783.44 |
| Bank Interest | 6,671.96 | 29,124.17 |
| Other Rents | 900.00 | 2,400.00 |
| Other Income | - | 2,241.51 |
| Fees Collected | - | 679.85 |
| Other Recoveries (DeYoung Roth accounts) | 71,011.21 | 71,011.21 |
| Receivership Recoveries | - | 5,215,947.78 |
| 401k Loss Allocation Collections | - | 1,005,507.67 |
| Total Cash Receipts | <u>187,035.76</u> | <u>70,184,405.74</u> |
| Cash Disbursements | | |
| Transfer to Equity | 1,681.85 | 48,946,200.23 |
| Assets Bought | - | 28,449,424.02 |
| Corrections | - | 664.29 |
| Early Distribution - exception applies | - | 321,502.94 |
| Early Distribution - no exception applies | - | 371,726.53 |
| Normal Distribution | - | 2,784,368.01 |
| Distribution Charitable Gift Annuity | - | 14,853.04 |
| Qualified Distribution Roth IRA | - | 130,601.37 |
| Roth IRA Distribution - Exception applies | - | 59,035.47 |
| Federal Tax / Premature Distribution | - | 16,500.00 |
| Federal Tax / Normal Distribution | - | 48,724.96 |
| Expenses | - | 1,247,363.48 |
| Fees Paid | 1,897.48 | 1,977,121.35 |
| Property Tax | - | 316,701.03 |
| Charitable Gift Annuity | - | 74.36 |
| Direct Transfer Out | - | 40,530.96 |
| Receivership Administrative Costs | 1,112,494.72 | 6,126,969.11 |
| Colemere Settlement | 25,000.00 | 25,000.00 |
| Bank Service Charges | 100.00 | 493.50 |
| Total Disbursements | <u>1,141,174.05</u> | <u>90,877,854.65</u> |
| Ending Cash Balance | <u>\$ 5,268,724.33</u> | <u>\$ 5,268,724.33</u> |

Notes:

Note 1 - Due to the theft of approximately \$24.6 million of client funds by the principal of the company, APS clients were assessed a 10% loss allocation to cover the shortfall created by the theft. The 10% loss allocation was paid by clients through cash which already existed in their accounts, through liquidation of assets in their accounts or by contribution of funds to their retirement accounts. The amount shown represents those funds which were contributed by clients to complete payment of their 10% loss allocation.

EXHIBIT C

AMERICAN PENSION SERVICES, INC. AND RELATED PARTIES
SUMMARY OF ASSETS

| Entity | Asset Description | Estimated Value | Comments | Actions/Status |
|---|---|-----------------|--|---|
| Personal Assets - Curtis DeYoung | | | | |
| | Home - 12231 S. 1950 E., Draper, UT | 630,000 | Appraised Value | Receiver abandoned per Settlement Agreement with M. DeYoung [Dkt. 701]. |
| | Encumbered by mortgage | - | Franklin America | Franklin filed a motion to intervene to release home from freeze [Dkt. 768]. The motion was granted on 11/22/16. |
| | Encumbered by 2nd Mortgage | - | Heritage West Credit Union | |
| | Combined Retirement Accounts - Curtis DeYoung | 325,845 | Frozen at Brighton Bank; accounts comprised of \$70,051 cash and remainder in various other investments of unknown value | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| | HSA account Curtis DeYoung | 4,181 | Frozen at Brighton Bank; accounts comprised of \$81,744.7 cash and remainder in various other investments of unknown value | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| | Combined Retirement Accounts - Michelle DeYoung | 231,652 | | |
| | HSA account Michelle DeYoung | 4,181 | | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| | Personal Furniture, Fixtures (Draper Home) | 20,000 | Value based on Rob Olson inspection | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| | Idaho Cabin Furniture | unknown | | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| American Pension Services, Inc. | | | | |
| | Cash - First Utah Bank | 85,899 | Operating account controlled by Receiver | Being used for day-to-day operations of APS and payment of professional fees, as funds are available. |
| | APS interest in two Ogden properties | 195,000 | APS has notice of interest on properties. Settled for \$45,000 | Receiver settled and received cash payment of \$45,000.00. |
| LIC Environmental | | | | |
| | Cash - First Utah Bank | - | | Final tax return filed for 2015. Court granted Receiver's motion to judicially dissolve [Dkt. 901]. Cash was transferred to APS Operating Account during the Eleventh Reporting Period (October 2016). |
| LJP, LLC | | | | |
| | Cash - First Utah Bank | - | | Cash was transferred to APS Operating Account during the Eleventh Reporting Period (October 2016). |
| | Receivable - Cl. White - Kansas City | - | | Receiver received \$1,128.12 in excess proceeds following tax sale. |
| | Receivable - Lionel Brown - Kansas City | - | | Receiver settled with Mr. Brown for \$500.00 and Receiver quit-claimed the property. |
| Quicksilver | | | | |
| | Cash - First Utah Bank | - | | Court granted Receiver's motion to judicially dissolve [Dkt. 901]. Cash was transferred to APS Operating Account during the Eleventh Reporting Period (October 2016). |
| First Silverado | | | | |
| | Cash - First Utah Bank | - | | Court granted Receiver's motion to judicially dissolve [Dkt. 901]. Cash was transferred to APS Operating Account during the Eleventh Reporting Period (October 2016). |
| APS Master Trust | | | | |
| | Property - Harrisburg, PA | - | 3 homes, demolished by City as a hazard. Total assessed value only on land | Demolition costs and taxes are in excess of value. Receiver legally abandoned the properties. |
| DHB2 Holdings, LLC | | | | |
| | Cash- Brighton Bank | - | | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| RE Ventures, LLC | | | | |
| | Cash-Brighton Bank | - | | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| Other Claims or Assets | | | | |
| | AP4S | - | Account closed | Final tax return filed for 2015. |
| | Claim for Uncollected APS Management Fees | 299,763 | Express recovered a total of \$34,370.25 and cancelled re | Express Recovery has exhausted all reasonable recovery efforts, deemed all remaining accounts uncollectible, and the Receiver terminated their services. |
| | Membership Interest in Asset Acquisition Partners of America Inc. | - | | Receiver determined to be of no value based on subpoena response from Wells Fargo. |
| | Value of Assets Discovered (coins, jewelry, precious metals) | 17,778 | Auction Value | The assets were auctioned on January 21, 2017. |
| | Interest in BD&D Investments, Inc. | - | Not aware of any value. Cannot verify existence of this entity. | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| | Various Collectibles and Judgments | 34,370 | \$34,370.25 collected | Express Recovery has exhausted all reasonable recovery efforts, deemed all remaining accounts uncollectible, and the Receiver terminated their services. |
| | Partnership Interest in DeYoung Associates, Ltd. | - | No known value | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| | Membership Interest in DLC2 Investments, LLC | - | Dissolved | Subject to Settlement Agreement with M. DeYoung [Dkt. 701] and Court granted Receiver's motion to judicially dissolve [Dkt. 901]. |
| | Claims Against Estate of Michael Memmott Jr. | 65,948 | | Court granted order approving settlement in <i>Thompson v. Memmott</i> , Case No. 2:14-cv-00744-RJS and closed case [Dkt. 84, 91]. Receiver collected \$65,948 from First National Bank of America. |
| | Action Against First Utah Bank | 5,000,000 | | Receiver collected all Settlement Funds during prior reporting period. |
| | Default Judgment Against Gary Huettinger | - | | Express Recovery has exhausted all reasonable recovery efforts, deemed all remaining accounts uncollectible, and the Receiver terminated their services. |

AMERICAN PENSION SERVICES, INC. AND RELATED PARTIES
SUMMARY OF ASSETS

| Entity | Asset Description | Estimated Value | Comments | Actions/Status |
|--|-------------------|-----------------|--|--|
| Claim Against Insurance Carriers - Chubb (Federal Insurance Company) | | 1,000,000 | \$1,000,000 collected by Receiver during this Reporting Period from Court Clerk. | On 12/22/17, Court issued an Amended Order Following Oral Ruling on Receiver's Renewed Motion for Summary Judgment [Dkt. 89] granting the Receiver the \$1 million policy proceeds |
| Interest in Interim Funding | | - | Checking account for \$100 transferred to APS operating account | No further action necessary |
| Claims Against LDS Church | | 250,000 | C. and M. DeYoung contributions. Settled for \$150,000 | Subject of <i>Thompson v. LDS Church</i> , Case No. 2:16-cv-00792. Parties settled for \$150,000.00 (Dkt. 22). Settlement funds collected during prior reporting period. |
| Excess Loss Allocation Collected | | 6,395,002 | | Total loss allocations collected equal approximately \$31 million. Subtracting the \$24.6 million stolen by Curtis leaves an excess loss allocation of \$6,395,002. |
| Claim for Additional Loss Allocation to be Collected from Non-compliant Accounts | | - | Collected \$101,175.51 additional loss allocation | Receiver collected \$101,175.51 in loss allocation from remaining accounts during this Reporting Period. No accounts remain at APS. |
| Interest in Mirocc, LP | | - | M. DeYoung formerly had ownership interest in entity w | M. DeYoung represents assets are minimal and she no longer has a claim to any of the assets. Receiver determined not to pursue assets. |
| Partnership Interest in NACH, LP | | - | No known value | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| Interest in Venture Broadcast Inc. | | - | No known value | Subject to Settlement Agreement with M. DeYoung [Dkt. 701]. |
| Interest in Witt's Lake Ranch, LLC | | - | M. DeYoung has ownership interest which was not discl | M. DeYoung represents there are no assets currently or ever owned by entity. Receiver determined not to pursue. |
| Interest in real property located at 3000 Highland Ave, Kansas City, MO | | 200 | Settled for \$50.00 | Receiver settled for \$50.00 with Neighborhood Legal Support of Kansas City and Habitat for Humanity who purchased the property at foreclosure sale. |

EXHIBIT D

**AMERICAN PENSION SERVICES, INC.
SUMMARY OF KNOWN CREDITORS**

| <u>CREDITOR</u> | <u>ADDRESS</u> | <u>OBLIGOR</u> | <u>AMOUNT</u> | <u>DESCRIPTION</u> |
|-------------------------------|--|---------------------------------|----------------------|-------------------------------|
| Dauphin County Tax Bureau | P.O. Box 1295, Harrisburg, Pennsylvania 17108 | American Pension Services, Inc. | 69,287.12 | Claim for Unpaid Taxes |
| Estate of Jeannine Reneau | 2825 E. Cottonwood Pkwy, Ste. 500, SLC, UT 84121 | American Pension Services, Inc. | 505,959.87 | Judgment |
| James P. Allfrey | 3843 West 11970 South, Riverton, UT 84065 | American Pension Services, Inc. | 2,000.00 | Claim for Unpaid Compensation |
| Mountain America Credit Union | 111 East Broadway, 11th Floor, SLC, UT 84111 | American Pension Services, Inc. | 12,253.00 | Judgment |
| Total | | | <u>\$ 589,499.99</u> | |

NOTES:

Note 1 - The above represents creditors that submitted a valid proof of claim to the Receiver. The creditor claims bar date was 12/30/16.

Note 2 - The above list does not include investors who have retirement accounts with American Pension Services.

Note 3 - The Receiver removed the claims of Hardy/Kane as invalid and the claims of First Utah Bank because First Utah abandoned its claims during this Reporting Period.

Note 4- The Receiver removed creditors that did not submit a proof of claim.

Note 5- The treatment of creditors was approved by the Court in the Order Granting Receiver's Plan of Distribution (Dkt. 971.)