

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

CASE NO. 6:06-cv-137-Orl-31KRS

EDWARD S. DIGGES, JR.,
NEXSTAR COMMUNICATIONS, LLC,
TMT EQUIPMENT COMPANY, LLC,
TMT MANAGEMENT GROUP, LLC,
POSA, LLC, POSA TMT, LLC, TELEVEST
COMMUNICATIONS, LLC, TELEVEST
GROUP, LLC, SPIN DRIFT, LLC,

Defendants,

_____ /

STATUS REPORT OF RECEIVER

This status report is filed on behalf of James D. Silver, as Receiver for Nexstar Communications, LLC, et al. (“Receiver”), pursuant to this Court’s January 29, 2008 Order to File Status Report (Doc. 188). The Status Report will set forth the Receiver’s recommendation regarding proceeding with a claims procedure and distribution. The Status Report will also provide an updated accounting of the receipts, expenses, and anticipated expenses of the Receiver Estates.

Recommendation Regarding Claims Procedure and Distribution

The Receiver recommends going forward with the claims procedures proposed in Doc. 149, including establishing a reasonable deadline for claims to be submitted. Once the claims process has been concluded, the Receiver proposes that a distribution of \$1 million be made to investors only while maintaining appropriate funds to enable the Receiver to meet outstanding

and anticipated obligations of the Receivership. As of February 19, 2008, the Receiver has funds on hand of \$2,014,426.90.

The Receiver proposed distribution of the \$1 million to investors only because the monies available for distribution were recovered from settlements of claims arising from a scheme that victimized investors and from the sale of the terminals and related placements incorporated into the settlement of claims against the Golodetz Related Parties. The terminals were purportedly sold to the investors as part of the scheme.

Although too early to know for certain, the Receiver believes that a \$1 million distribution will translate into a recovery to investors of at least five percent (5%) of their allowed net claims.¹ Net claims would be calculated by taking the total amount paid in by each investor and deducting all payments received back by each investor, including lease payments on the credit card terminals.

Apart from reductions in claims based on the amounts received by each investor to arrive at the net, distributions will only be made to the extent that a claim is allowed. Claims are not allowed until submitted by the investor to the Receiver in accordance with the claims procedures to be established by the Court. Once submitted, the claims are allowed only to the extent that the claim is not objected to, or if objected to, only to the extent of any amount allowed after the objection has been determined by the Court, or amicably resolved between the Receiver and the claimant. By way of example only, the Receiver intends to object to any claims that may be submitted by brokers involved in selling to the victimized investors or persons or entities associated with those brokers.

¹ The Affidavit of Proof of the Receiver's forensic account, Soneet Kapila, attached hereto as Exhibit "1" reflects approximately \$22.4 million of funds received from investors during the credit card terminal scheme and approximately \$500,000 paid to investors in the form of supposed lease payments. See Kapila Affidavit, paragraphs 15, 20.

Depending on the outcome of the current litigation brought by the Receiver against Paul Hoffman (Case No. 07-cv-1670-Orl-19DAB) and separate litigation against Louis C. Haug (Case No. 06-cv-0290-Orl-31GJK), as well as the total amount of liabilities of the Receiver Estates, there may be an additional distribution before the Receivership is closed.

Income² and Expenses of Receiver Estates

The cash inflows and outflows from the Receiver Estates during the course of the Receivership are detailed on Exhibit “2” and Exhibit “3” attached hereto.

Exhibit “2” consists of a Ledger (the “Ledger”) detailing receipts and disbursements from the Receiver’s two Receivership Accounts at Wachovia Bank in Tampa (“Original Receivership Accounts”), the accounting work on which was performed by Carlton Fields, P.A.’s accounting personnel.

Exhibit “3” consists of a redacted³ statement from Wachovia Bank in South Florida on a new Receivership account (the “Current Receivership Account”). The Receiver opened the Current Receivership Account with Wachovia Bank in South Florida on January 30, 2008 with the deposit of the check payable to the Receiver from the United States District Court, Middle District of Florida, in the amount of \$1,313,923.67. The \$1,313,923.67 represents the Golodetz related Settlement Proceeds and interest earned on those funds in the Court Registry. The Golodetz related Settlement Proceeds were initially deposited in one of the Original Receivership Accounts (\$1,275,000 on April 16, 2007 and \$25,000 on April 23, 2007) but were subsequently transferred into the Registry of the Court per Court Order.

With the exception of \$60 retained to cover any bank fees, the funds from the Original Receivership Accounts were transferred to the Current Receivership Account on February 11,

² The term “income”, as used in this Report, does not connote “income” for tax purposes but rather is used to describe the Receiver Estates’ receipts during the course of the Receivership.

³ The statement has been redacted out of an abundance of caution to remove the account number.

2008 with a wire transfer of \$1,448,706.97. The only transfers out of the Current Receivership Account, as of this date, consist of the payment of fees and expenses to Carlton Fields, P.A. and Kapila & Company pursuant to this Court's prior Orders (Doc. Nos. 174 and 186). Specifically, on January 31, 2008, the Receiver caused the following amounts to be wired from the Current Receivership Account: \$336,203.62 to Kapila & Company and \$420,000 to Carlton Fields, P.A.

As reflected in Exhibit "3", the balance in the Current Receivership Account as of February 19, 2008 is \$2,014,426.90.

Receiver Estate Income

The primary income to the Receiver Estates comes from four sources: (1) the \$1,300,000.00 received from the settlement that the Receiver negotiated with Edward Golodetz, EMG Associates, and certain related parties ("Golodetz Related Parties"), which settled litigation claims and also incorporated the sale of the credit card terminals and related placements to EMG; (2) the \$1,150,000.00 that the Receiver received from the settlement that he negotiated with Edward S. Digges, Jr., KBK Partnership, LLP, Chilham, LLC, Katherine Kerr, and certain other related parties; (3) \$299,739.01 of residual payments that the Receiver was able to secure from EMG, one of the Golodetz Related Parties; and (4) the \$50,000.00 that the Receiver received from the settlement he negotiated with Rick McGonnigal.

Receiver Estate Expenses and Anticipated Expenses

The expenses paid out, to date, are reflected in the Ledger and the Wachovia statement attached hereto as exhibits 2 and 3, respectively. Incurred but unpaid expenses and anticipated expenses, which would not be reflected in the foregoing exhibits, are discussed below.

Tax Liabilities of Receiver Estates – The Receiver's tax professionals at Kapila & Company have not finalized their analysis of potential tax liabilities. On a preliminary basis,

Kapila & Company believes that the tax obligations for the Receiver Entities are unlikely to be significant because all of the Receiver Entities are “pass-through” entities and the fact that the cash flows into and out of these entities were primarily investor funds. However, since the analysis is not final, it would be prudent to reserve funds for the unlikely event of a tax liability. The Receiver believes that \$200,000 is an appropriate amount to reserve for present purposes.

Carlton Fields, P.A. – Carlton Fields has been paid \$420,000 of the \$509,110.51 of fees and expenses pursuant to this Court’s January 8, 2008 Order (Document 186). The amount paid currently was capped at \$420,000 by the agreement between Carlton Fields, P.A. and Conrad & Scherer, LLP in connection with the substitution of counsel. However, while the remaining \$89,100.51 is subordinated in large measure to fees and expenses of Conrad & Scherer, LLP, including also the fees and expenses of the Receiver, the foregoing amount still represents an unpaid administrative obligation of the Receiver Estates.

In addition, the Carlton Fields, P.A. fees and expenses that were the subject of the Court’s January 8, 2008 Order (Document 186) represent fees and expenses incurred through March 31, 2007. Carlton Fields has provided the Receiver an information invoice for all time and expenses incurred from April 1, 2007 until the termination of its representation last month upon the Order Approving Stipulation and Agreement of Substitution of Counsel (Document 185) in the amount of \$219,204.50. The foregoing amount consists of fees in the amount of \$207,655 and expenses in the amount of \$11,549. In view of certain inefficiencies in Carlton Fields’ handling of the receivership matter during the period covered by the foregoing invoice, the Receiver anticipates that Carlton Fields will voluntarily make some significant concessions on the total amount of fees and expenses that it will be seeking. Carlton Fields has indicated that

it will have discussions with the Receiver concerning concessions on the fees and expenses set forth in the invoice toward the conclusion of the matter before submitting its fee application.

The Receiver is hopeful that the issues concerning Carlton Fields' fees and expenses can be resolved in advance of submission of a fee application so that the Receiver will be in a position to recommend approval to the Court. Under the Substitution Agreement, Carlton Fields will not seek additional fees until the conclusion of the case.

Kapila & Company – The Receiver has paid Kapila & Company the \$336,203.62 of accountants fees and expenses authorized by the Court's prior Order. The fees and expenses covered the period through March 31, 2007. Kapila & Company has advised the Receiver that it has approximately \$10,000 in work in progress from April 1, 2007 through the middle part of February, 2008.

The Receiver anticipates that Kapila & Company will have some significant additional fees and expenses prior to the conclusion of the Receivership. For example, Kapila & Company is assisting the Receiver in addressing any potential tax liabilities of the Receiver Estates. In addition, it is likely that Kapila & Company will provide additional forensic support in connection with the two remaining pieces of litigation – Silver v. Haug and Silver v. Hoffman. It is difficult to accurately estimate future fees and expenses for the litigation matters since the nature and extent of the services to be performed will depend on the issues ultimately framed in the litigation and how vigorously the cases are contested with regard to the forensic issues.

Kapila & Company has already performed extensive forensic analyses in this matter and this should reduce the total amount of forensic work required in connection with the two pending pieces of litigation. The Receiver estimates that future fees and expenses of Kapila & Company, together with its work in progress, will not exceed \$100,000, excluding any assistance that

Kapila & Company may lend in the claims review and distribution process, a separate category discussed below.

Conrad & Scherer, LLP -- Conrad & Scherer, LLP fees and expenses through February 1, 2008 are approximately \$81,000. The fees and expenses include the Receiver's time since joining the firm on September 4, 2007 as well as the time of other attorneys at the firm from and after the firm's January 4, 2008 substitution as counsel. Conrad & Scherer, LLP has not yet filed an interim fee application in this matter.

Conrad & Scherer, LLP will have significant additional fees and expenses pursuing this matter to its conclusion. Such fees and expenses include prosecuting the litigation against Paul Hoffman, which is still in the early stages, as well as prosecuting the litigation against Louis C. Haug to its conclusion.⁴

The Receiver estimates that fees and expenses in the Hoffman litigation will be quite substantial and that the case will be heavily litigated. The Receiver estimates that at least \$250,000 of additional fees and expenses will be incurred in the Hoffman litigation unless it settles at the early stages. In the event that the case is litigated through trial, the fees and expenses could be higher.

The Receiver estimates that the fees and expenses for bringing the Haug litigation to a conclusion will not exceed \$50,000 although they could be higher if the case were to go through trial.

Claims Process and Distributions – As set forth above, the Receiver has proposed going forward with a claims procedure to determine the claims of investors in this matter. Such a process is a necessary requisite to being able to make a distribution in this matter. Although it is

⁴ These fees and expenses are separate from the fees and expenses estimated below for the claims procedure and distribution.

very difficult to estimate the expense involved in such a process, the Receiver believes that at least \$150,000 in fees and expenses will be incurred in connection with the claims and distribution process and an additional \$100,000 of fees and expenses not addressed above will likely be incurred closing out the Receiver Estates and making any final distribution.

Since there are approximately three hundred (300) investors around the country, the claims process will require significant resources and expense. For example, all filed claims and supporting documentation will need to be reviewed and cross-checked against voluminous receivership files and forensic data, and if necessary, objections will need to be prepared and filed with regard to claims that are objectionable. Unless the objections can be resolved between the Receiver and the claimants, these objections will need to be presented to the Court for adjudication.⁵

In addition, the Receiver will need to address potential issues relating to investors who invested through their IRAs and may be seeking to close out or move their IRAs. In addition, the Receiver has learned during the course of this Receivership that a number of investors have died. The Receiver will need to address issues relating to the appropriate party who succeeds to the rights of the deceased investor with regard to the distribution.

Moreover, the claims process will involve significant copying and postage expenses although the Receiver anticipates the possible use of third party copy services to handle the bulk copying and mailings in an effort to make the process more efficient and cost-effective.

Further, for purposes of making distributions to the investors, a data base of the approximately 300 investors will need to be created, and the Receiver will need to address I.R.S.

⁵ The Receiver anticipates making the claims process more efficient by enlisting the assistance of in-house Conrad & Scherer, LLP accounting personnel at hourly rates significantly lower than that of the Receiver.

compliance issues, including distinguishing distributions paid to IRA investors versus the non-IRA investors.

The foregoing is an estimate only since a myriad of unanticipated issues may arise.

Wright, Constable & Skeen – Wright, Constable & Skeen (“WCS”) is the Receiver’s local Maryland counsel and the Receiver has paid the firm through the time period covered in its fee application pursuant to the Court’s Order (Document No. 177). WCS has done some additional work helping to coordinate the releases of notices of lis pendens and dismissal of those actions in Maryland pursuant to the Receiver’s Settlement Agreement with Mr. Digges and related parties. In addition, WCS is coordinating the turnover of some personal property from a Maryland storage facility.

WCS’ current fees and expenses are under \$2,000. Barring anything unforeseen, The Receiver does not believe that WCS’ further fees and expenses will exceed \$3,000.

Storage Expenses - The Receivership has continuing monthly storage expenses in Maryland and Orlando in excess of \$650.00 per month. Although the Receiver is hopeful that storage at these facilities can be closed out in the near future, he anticipates placing a large number of the voluminous bankers boxes that had been housed at Carlton Fields, P.A. relating to this case in storage since there is insufficient room at Conrad & Scherer, LLP to accommodate all of the boxes. Thus, the Receiver believes that it is prudent to budget \$600 per month for storage expenses through the conclusion of the Receivership.

Website Expenses - The Receiver, through Conrad & Scherer, LLP, has contracted out the work maintaining the Receivership web site. The Receiver believes that the cost of these services will not exceed, on average \$50 per month. Additional fees may be required to maintain

the domain name. The web site is a very useful tool in keeping at least a portion of the investors informed of developments in the Receivership.

Miscellaneous Expenses – The Receiver has some additional Receiver Fees for the brief hiatus between his departure from Carlton Fields as of July 31, 2007 and his joining Conrad & Scherer, LLP on September 4, 2007. These fees are relatively modest given the brief time frame involved. In addition, there are likely other miscellaneous expenses that may have been overlooked. However, it is believed that any such additional miscellaneous expenses will be relatively small.

Conclusion

The Receiver recognizes that the amount of outstanding and anticipated expenses, when combined with the current reserve recommended for potential tax liabilities exceeds the amount of funds that will remain if the Court authorizes the recommended distribution to investors of \$1 million. However, given the likelihood of some additional litigation recovery, the Receiver believes that it is nonetheless appropriate to move forward with a \$1 million distribution after claims procedures have been established and the claims process has been concluded.

Date: February 20, 2008
Fort Lauderdale, FL

Respectfully submitted,

s/William R. Scherer, III
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been uploaded this 20th day of February, 2008 to the Court's CM/ECF system which will send a notice of electronic filing to the following counsel of record:

William Hicks, Esq., Robert K. Gordon, Esq., M. Graham Loomis, Esq., and Jack Westrick, Esq.

Atlanta Regional Office, Securities and Exchange Commission
3475 Lenox Road N.E., Suite 1000
Atlanta, Georgia 30326-1232

I FURTHER CERTIFY that I mailed the foregoing via U.S. Mail to the following non-CM/ECF participant: **Edwards S. Digges, Jr.**, One Sandy Acres, Cambridge, Maryland 21613.

s/William R. Scherer, III
WILLIAM R. SCHERER, III