

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SECURITIES AND EXCHANGE §
COMMISSION, §
§
PLAINTIFF, §
§
vs. §
§
BRIAN A. BJORK, THE ESTATE OF JOEL §
DAVID SALINAS, J. DAVID GROUP OF §
COMPANIES, INC., J. DAVID FINANCIAL §
GROUP LP, SELECT ASSET §
MANAGEMENT LLC, SELECT ASSET §
CAPITAL MANAGEMENT LLC, SELECT §
ASSET FUND I, LLC, AND SELECT ASSET §
PRIME INDEX FUND, LLC. §
§
DEFENDANTS. §

CIVIL ACTION NO. 4:11 CV - 02830

RECEIVER’S EIGHTH INTERIM REPORT

TO THE HONORABLE KEITH P. ELLISON, UNITED STATES DISTRICT COURT:

Steven A. Harr (“Receiver”), the Receiver appointed by the Court in these proceedings, files his Eight Interim Report and for same states as follows:

I.
INTRODUCTION

1. A Preliminary Report (Dkt#25) was filed by the Receiver on September 27, 2011. On November 3, 2011, the Receiver filed his Second Interim Report (Dkt#35). A Third Interim Report (Dkt#47) was filed February 7, 2012. A Fourth Interim Report (Dkt#72) was filed May 21, 2012. A Fifth Interim Report (Dkt#99) was filed September 10, 2012. A Sixth Interim Report (Dk# 111) was filed on December 12, 2012. A Seventh Interim Report (Dkt#135) was filed on April 16, 2013. The Receiver provides periodic reports to the Court as this matter progresses and based on the accumulation of important information.

2. The receivership has now been in place for approximately twenty-five months. This report is intended to be more of an "update" on key matters. The history of the receivership is contained multiple times in the first five reports. Changing the format will take less time and reduce the cost of reporting.

3. This Report includes an update on (a) key events since the last report; (b) the Receiver's current conclusions as to the extent and nature of the Receivership Estate's assets and liabilities, (c) the status of the claims process for victims, and (d) the Receiver's current view of the potential for recovery efforts and alternatives in light of the assets available.

II. **SUMMARY OF KEY EVENTS SINCE SEVENTH INTERIM REPORT**

4. A summary of the key events since the last report is as follows:

5. **Insurance Proceeds:** All insurance death benefits on the life of J. David Salinas have been collected and are on deposit with the Receiver.

6. **Loan Collection:** **\$513,551.71 collected since the last report.** Monitoring and collection of loans in Select Asset Management Fund I and Select Asset Management Prime Index Fund continues. The Receiver filed summary proceedings for judgment on an additional loan and a settlement agreement has been reached with the obligor and submitted to the Court for approval calling for a payout of an additional \$215,000 over approximately 14 months.

7. **Real Estate:** The family home on Wilderness Trail has been sold. From that sale, \$144,933.00 was deposited into the accounts of the receivership. The home in Pearland on Apple Blossom was under contract, but the contract was terminated due to the fact the buyer unexpectedly lost her job. The Receiver did receive a low offer on the bay house on Chiquita, but the parties could not agree on a price. Activity on the real estate is slow.

8. **Third Parties:** The Receiver has updates regarding his negotiations of a property settlement with Erin Bjork, resolution with Brian Bjork, resolution of estate's interest owned by SFT Investments, Inc. in Select Market Insurance Group, analysis of potential claw back claims, and the Receiver's communications with the Department of Justice. Outlined below is an update on each.

9. Last fall the Receiver opened discussions with Erin Bjork, wife of Brian Bjork, to develop a property settlement for Mr. Bjork's interests in their community personal and real property. Ms. Bjork did not comply with her agreement to provide information in January 2013 and despite repeated requests for the information, the Receiver was forced to take her deposition to investigate her assets and to determine what offer he can make for a property settlement regarding the community interest of Brian Bjork. The deposition has been taken and the Receiver is discussing a property settlement with her.

10. Shortly before Brian Bjork reported to prison, the Receiver reached a final property settlement with him. In the wake of a partition agreement he and his wife signed before the receivership was filed, he essentially has very little in the way of cash or property. The Receiver obtained two Rolex watches from him, one of which turned out to be a fake and the other is in poor shape. They will be sold and the proceeds deposited in the accounts of the receivership.

11. The Receiver has entered into a contract, obtained court approval and has closed the sale of the estate's interest owned by SFT Investments, Inc. in Select Markets Insurance Group. The sale price was \$300,000.00. \$100,000 of the purchase price has been paid to the Receiver. The remaining \$200,000 will be paid over 18 months at 3.5% interest.

12. With the help of the receivership accountants, claims are being analyzed for the claw back of funds unfairly paid to third parties.

13. The Receiver is in communications with the Department of Justice to take control of any funds they recover and to process those funds through the receivership's claims process.

14. **Claims Approval Process:** The claims team has received what they believe are substantially all the claims to be made in this matter. They have been provided with the results of the extensive forensic accounting performed by UHY Advisors. The claims team has initiated the claims review to develop claims for approval by the Court. Three Motions to the Court for approval of claim amounts have been filed and granted. Because the Receiver has filed a motion to collapse all of the entities into one common pool, some of the previously approved claims have to be re-adjusted to put them on a common ground with all other claims. To further explain, the claims in Select Asset Fund I and Select Asset Prime Index Fund did not adjust downward for money returned to those investors (believing the returned funds were legitimate earnings). The result of the forensic study shows that the two Funds were in fact essentially insolvent from almost the very beginning and that the money paid to investors were not real profits. Instead, money paid to Fund investors was in large part the investment money of others.

15. At present, 188 claims have been approved out of a total of 288 A Claims and 24 B Claims. The approved claims to date and that are not subject to adjustment total \$32,946,312.80. 52 claims that have been previously approved need to be adjusted as indicated above. 36 claims in the amount of \$13,281,838.84 remain to be approved. The process for the remaining claims is expected to be slower than the first groups of claims because they will require more communication with investors to sort through what has been provided.

16. **Miscellaneous:** The Receiver's website has been updated with information to investors and the Receiver responds regularly to inquiries from investors on the status of the receivership. The Receiver has renewed the Certificates of Deposits holding the larger sums of the receivership corpus.

III.
GENERAL SUMMARY OF THE RECEIVERSHIP ESTATE'S
ASSETS AND LIABILITIES

17. As reported in the prior Interim Reports (DK#s 25, 35, 47,72, 99, 111 and 135), the Receivership estate is composed of various types of assets. This Eight Interim Report will update the previous reports without repeating information on the assets that remain unchanged:

18. **Real Estate:** The remaining real estate assets include the Bay home, the Pearland home and the New Ulm lot. The Bay home, Pearland home and New Ulm lot are listed for sale. Purchaser interest in the properties has been light. The Salinas family home was sold in May 2013. The Receiver's current belief is that there may be as much as \$350,000 in equity in these properties, before payment of sales costs and unpaid real estate taxes.

19. **Insurance Policies:** No new insurance policies have been identified and all proceeds of all identified policies have been collected by the Receiver. There are no further insurance proceeds to collect and thus this item will not be addressed in future reports.

20. **Loans/Investments:** Select Asset Fund I and Select Asset Prime Index Fund had collectively made 20 loans or investments, either as maker, participant or investor. Many of the loans/investments are being paid as agreed. The loans that held the possibility of being paid, but were past due, have been pursued and settlements reached with payments now being made as agreed. The intercompany loans (loans between the Funds and various J. David related

entities) are obviously in default. In his *Motion to Approve Plan of Distribution*, the Receiver is asking the Court to collapse all of the J. David Salinas related entities, including Select Asset Fund I and Select Asset Prime Index Fund, into one common pool of assets such that the intercompany loans (in the Receiver's opinion these were really no more than substantial comingling of all investor funds) will be subsumed in the claims process. Some loans in the Funds are of negligible value and will not be pursued. An updated summary of the current understanding of these loans/investments follows.

21. Since the last report, one loan on a payout plan has completed its payout schedule. Another loan was paid off in full. There are two loans and three investments that remain to be liquidated and the Receiver is working to sell or liquidate these assets. The identity of the maker and guarantors of the notes or the party in which money is invested is not provided due to privacy concerns. The numbers shown are as best known at this time, are presented without prejudice to the actual amount owed and may change as the investigation continues.

SELECT ASSET FUND I LLC NOTES

ORIGINAL PRINCIPAL	ESTIMATED CURRENT BALANCE	STATUS	COLLATERAL
\$155,000	\$220,000 plus interest (additional \$65,000 advanced)	Matured; unpaid; Receiver made demand and after some activity before the Court, the Borrower and the Receiver have reached a settlement agreement that has been submitted to the court for approval calling for payment of \$215,000.	It does not appear that this loan was originally collateralized. The settlement is collateralized.
\$1,575,000	\$72,981 plus interest	Matured; unpaid; demand has been made; court has approved settlement and this matter has been settled and the funds collected	Residential real estate;
\$1,965,000	\$1,965,000 plus interest	No documentation; loan is due; unpaid; loan to related J. David entity; borrower	None

ORIGINAL PRINCIPAL	ESTIMATED CURRENT BALANCE	STATUS	COLLATERAL
		can't pay the loan. Negotiations have been under way; court has approved settlement and this matter has been settled and the initial payment made with additional funds to be paid over time	
\$300,000	\$300,000 plus interest	No documentation; due; unpaid; loan to related J. David entity; This loan is owed by the same obligors as the preceding listed loan and as negotiations have been successful it will be satisfied as well with the agreed partial payment; ; court has approved settlement and the initial payment made with additional funds to be paid over time	None

SELECT ASSET FUND I LLC PARTICIPATIONS PURCHASED

ORIGINAL PRINCIPAL	ESTIMATED CURRENT BALANCE	STATUS	COLLATERAL
\$500,000	\$497,271.41	Current and performing.	Commercial real estate and UCC assets.
\$1,000,000	\$936,884.04	Current and performing.	Commercial real estate.

SELECT ASSET PRIME INDEX FUND LLC NOTES

ORIGINAL PRINCIPAL	ESTIMATED CURRENT BALANCE	STATUS	COLLATERAL
\$1,000,000	\$1,000,000 plus interest	Pool of loans, covenants violated, distributions had been suspended at the time of the Receivership but were resumed in April 2012. A sale agreement has been reached with some of the other investors and the court has approved the sale; sale in final documentation status.	Commercial Debt Obligation Fund
\$1,000,000	\$1,060,267 plus interest	Matured; unpaid; demand was made; settlement worked out with borrower and approved by the Court; borrower paid half the balance on settlement and has paid the remaining balance due.	Secured by assets in SAM brokerage accounts
	\$810,000 plus interest	No documentation; due; unpaid; loan to related J. David entity; indications are the borrower can't pay the loan. Negotiations	None known

ORIGINAL PRINCIPAL	ESTIMATED CURRENT BALANCE	STATUS	COLLATERAL
		resulted in an agreement; Court has approved settlement and this matter has been settled and the initial payment made with additional funds to be paid over time	
\$1,000,000	\$1,000,000 (divided in to 4 debentures of \$250,000 each)	Current and paying as agreed.	Subordinated to senior debt holders, otherwise secured by all business assets
\$150,000	\$12,700.00	Current and paying as agreed.	Commercial Real Estate

22. **Bank Accounts:** Approximately 60 bank accounts for the Defendants have been identified, the banks put on notice of the TRO/Freeze Order and Order Appointing Receiver and all such accounts have been frozen. The accounts for Fund I and Prime Fund have been kept separate from all other funds in the receivership and money that is paid on loans in Fund I and Prime Fund has been segregated until now. The funds from the pawn shop and its operations were at one time segregated, but the Receiver concluded that the operations of J. David Financial and the pawn shop were so comingled that the pawn shop investors and proceeds need to be part of the larger receivership pool associated with J. David Financial. Although the Receiver has maintained the accounts for Select Asset Fund I and Select Asset Prime Index Fund as separate entities, he is asking the Court in his Motion to Approve Distribution Plan to collapse all of the J. David Salinas related entities, including Select Asset Fund I and Select Asset Prime Index Fund, into one common pool of assets for the reasons stated in that motion - essentially the Receiver believes that there was enough comingling of all investor funds to warrant treating all of the assets as a common fund against which all claims will be asserted.

IV.
CLAIMS ADMINISTRATION

23. Distributions will be made only according to a plan approved by the Court. The Receiver has filed a Motion to Approve Distribution Plan and in so doing has asked the Court for the right to make an interim distribution of \$10,000,000. Because it may be some time before the remaining real estate and other loans/investments are liquidated and because it is the Receiver's desire to get money flowing to the investors, he has asked for the authority to make the interim distribution.

V.
CURRENT VIEW OF POTENTIAL RECOVERIES

24. The Receiver has completed his settlement of the J. David Salinas probate estate and interests of the family in all community and separate property and has now listed all of the real estate assets for sale. He has sold Parkway Pawn and substantially all of the personal property has been seized. All insurance proceeds have been collected. At present, the Receiver is hopeful that he can sell and liquidate equity in all of the remaining real estate in 2013.

25. The Receiver has evaluated the loans in Fund I and the Prime Index Fund and has been taking steps to seek full payoff of these loans and the possible sale of other loans or investments that cannot or are not required to be paid off in the reasonably near future.

26. The Receiver is also currently engaged in an analysis of the flow of funds in and out of the various Defendants' bank accounts and entities. The Receiver is also currently engaged in review of all third parties who assisted the receivership entities to determine the extent of their participation in the process, possible location of assets and possible claims. Finally, the Receiver is in contact with the Department of Justice and it is likely that all funds seized by the Department will be turned over to the Receiver to be administered through the claims process in this proceeding.

27. The most recent quarterly Standard Funds Accounting Report prepared by the Receiver's accounts is attached as Exhibit "A" reflecting the estates assets and expenses to date.

28. The Receiver has established a website at www.selectassetreceiver.com and encourages investors to comment on this Report by responding by e-mail at the address posted therein. The Receiver has reviewed and considered correspondence forwarded through this means, and will continue to do so unless constrained by the expense.

DATED: September 17, 2013

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.

/s/ Steven A. Harr

Steven A. Harr

SDTX Bar No. 09035600

MUNSCH HARDT KOPF & HARR, P.C.

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THE RECEIVER

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically with the Clerk via the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Houston, Texas, this the 17th day of September 2013.

/s/ Steven A. Harr

Steven A. Harr

EXHIBIT A

STANDARDIZED FUND ACCOUNTING REPORT for J. David Financial, et. al. - Cash Basis

Receivership; Civil Court Docket No. 4.11 CV - 02830

Reporting Period 5/01/2013 to 7/31/2013

FUND ACCOUNTING (See Instructions):				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 5/01/2013):		\$ 24,667,914	
	<i>Increases in Fund Balance:</i>			
Line 2	Business Income	\$ -		
Line 3	Cash and Securities	-		
Line 4	Interest/Dividend Income	24,430		
Line 5	Business Asset Liquidation	-		
Line 6	Personal Asset Liquidation	45,674		
Line 7	Third-Party Litigation Income	-		
Line 8	Miscellaneous - Other	-	70,104	
	Total Funds Available (Lines 1 – 8):			\$ 24,738,018
	<i>Decreases in Fund Balance:</i>			
Line 9	Disbursements to Investors			
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	193,370		
Line 10b	Business Asset Expenses	-		
Line 10c	Personal Asset Expenses	9,401		
Line 10d	Investment Expenses	315		
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses	-		
Line 10f	Tax Administrator Fees and Bonds	-		
Line 10g	Federal and State Tax Payments	168		
	Total Disbursements for Receivership Operations		(203,254)	
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....			
	Independent Distribution Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	Total Disbursements for Distribution Expenses Paid by the Fund			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
	Total Funds Disbursed (Lines 9 – 11):			(203,254)
Line 13	Ending Balance (As of 7/31/2013):			\$ 24,534,764

STANDARDIZED FUND ACCOUNTING REPORT for J. David Financial, et. al. - Cash Basis

Receivership; Civil Court Docket No. 4.11 CV - 02830

Reporting Period 5/01/2013 to 7/31/2013

Line 14	Ending Balance of Fund – Net Assets:			
Line 14a	Cash & Cash Equivalents			\$ 21,321,961
Line 14b	Investments			-
Line 14c	Other Assets or Uncleared Funds			3,212,803
	Total Ending Balance of Fund – Net Assets			\$ 24,534,764

OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
	Report of Items NOT To Be Paid by the Fund:			
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 15a	Plan Development Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund			
Line 15b	Plan Implementation Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	Total Plan Implementation Expenses Not Paid by the Fund			
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	Total Disbursements to Court/Other Not Paid by the Fund:			
Line 17	DC & State Tax Payments			
Line 18	No. of Claims:			
Line 18a	# of Claims Received This Reporting Period.....			1
Line 18b	# of Claims Received Since Inception of Fund.....			291
Line 19	No. of Claimants/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period.....			-
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....			-

Note: Asset values are estimated based on books and records of estate. These amounts may change upon further analysis during the course of the receivership.

Receiver:

By: _____ Date: _____
(signature)

(printed name)

(title)

STANDARDIZED FUND ACCOUNTING REPORT for J. David Financial, et. al. - Cash Basis

Receivership; Civil Court Docket No. 4.11 CV - 02830

Reporting Period 5/01/2013 to 7/31/2013

Line 1: Beginning Balance (As of 5/01/2013):

Balance as of last report period ended 4/30/2013	\$	24,386,000
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Adjustment of asset values unknown at beginning of receivership:

J. David Financial et al Receivership: HomeTown Bank Credit Card (Write off uncollectible portion of unsecured credit card)	(18,086)
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Select Asset Prime Index Fund, LLC: Selected Market Insurance Group, LLC (Restructure of debt previously written off as an uncollectible note receivable)	81,000
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Selected Asset Fund I, LLC: Selected Market Insurance Group, LLC (Restructure of debt previously written off as an uncollectible note receivable)	192,000
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Online Insurance Services, Inc. (Restructure of debt previously written off as an uncollectible note receivable)	27,000
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Adjusted balance as of 4/30/2013	<u>\$</u>	<u>24,667,914</u>
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Line 14c: Other Assets or Uncleared Funds:	Assets	Mortgages	Net Assets or Uncleared Funds
Global Leveraged Capital	\$ 948,986	\$ -	\$ 948,986
Real estate at appraised values:			
Galveston house	578,620	(364,014)	214,606
Pearland house	120,375	(50,119)	70,256
Total real estate	<u>698,995</u>	<u>(414,133)</u>	<u>284,862</u>
Notes Receivable:			
Held by Select Asset Fund I, LLC	900,887	-	900,887
Held by Select Asset Prime Index Fund, LLC	1,062,918	-	1,062,918
	<u>1,963,805</u>	<u>-</u>	<u>1,963,805</u>
Other Receivable:			
Unsecured credit card	15,000	-	15,000
Security deposit	<u>150</u>	<u>-</u>	<u>150</u>
Total other assets or uncleared funds	<u>\$ 3,626,936</u>	<u>\$ (414,133)</u>	<u>\$ 3,212,803</u>