

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 PRELIMINARY 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 Preliminary Report and for same states as follows:

Introduction

1. The following Report is prepared for the purpose of informing the Court of the status of this matter since the Receiver’s appointment on August 1, 2011. The Receiver intends to provide further periodic reports as the matter progresses.

2. The Report is based upon the preliminary investigation conducted by the Receiver and his agents, which has included witness interviews, conferences with involved officials, the beginning of a forensic analysis of financial records, reviews of documents maintained by the Defendants and obtained from investors or third-parties, site inspections of all assets of the related entities and the day-to-day operations of the involved businesses.

3. The Report includes (a) a general summary of the work done to-date, (b) a statement as to the Receiver's preliminary conclusions as to the extent and nature of the Receivership Estate's assets and liabilities, (c) the proposed 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. This report does not have in depth details for the reason that the investigation continues and accurate specifics are not available yet. Future reports will have more detail.

General Summary of Work To Date

4. Beginning on August 2, 2011, and within hours of the appointment of the Receiver by this Court, the Receiver's agents arrived at the corporate offices of J. David Financial Group LP in Friendswood, Texas and Select Asset Management LLC in Houston, Texas. In general, the following has occurred:

a. Securing of all premises and the initiation of a review of the files in place to obtain an understanding of general record keeping methods and files available, and to secure all records, both physical and electronic;

b. Interview of available key former employees, some multiple times, to gain information regarding the assets, status of same, and current issues;

c. Initial inventory, inspection, and a preliminary understanding of all assets, legal documents regarding same, and the relationship of the Defendants to those assets;

d. Re-open the Parkway Pawn business operation to facilitate loan payments, recovery of property and maintenance of the ongoing business of Parkway Pawn and to satisfy the demands of the regulatory agencies of the State of Texas over pawn shops;

e. Preliminary evaluation of the assets held by the Receivership entities, including, but not limited to, initiating the process to determine actual market value of the assets, quantifying the debt on certain assets, notice to all lenders of the Receivership so as to protect the assets from any kind of claim or foreclosure;

f. Request and obtain access through the Secret Service to all financial information available, contact with financial institutions to freeze all identified bank accounts and initiate the transfer of frozen money to accounts maintained by the Receiver;

g. Begin to determine the actual extent of liabilities to creditors, mortgage holders and investors;

h. Devise an appropriate claims process, prepare and file a motion to obtain Court approval for a claims process, claims manager and claim form and obtain order approving the process and forms;

i. Establish within a few days of the Receiver's appointment an information website (www.selectassetreceiver.com) for all interested investors, creditors and others with regard to the status of the Receivership and to provide for on-going communications, updated pleadings filed in the proceeding, and an email address for questions and inquiries;

j. Secure the services of a broker/property consultant to evaluate and market all real estate assets of the Receivership;

k. Search for, obtain and contact all insurance companies that have issued policies on the life of J. David Salinas, provide them with copies of the TRO/Freeze Order and Order Appointing Receiver and initiate and continue communications with these insurers with regard to their policies and claims to be made under the policies;

l. File claims on \$9,150,000 in death benefits for receipt by the Receivership and continue to work to communicate with the insurance companies to satisfy their requirements and gather the information necessary to file on the remaining \$6,600,000 in death benefits;

m. Work with various individuals who were named three weeks before his death as beneficiaries under some of the J. David Salinas life insurance policies to re-assign the

policy benefits to the Receivership so as to avoid the time and expense of asserting claims for fraudulent transfers and other claw back remedies available to the receiver;

n. Employ the services of an accountant for the Receivership to be responsible for all accounting of the funds received and disbursed as well as forensic accounting with respect to the records of the Defendants;

o. Move the court for permission to employ an experienced claims manager for all investor and creditor claims to be made in the receivership claims process;

p. Begin the process of understanding the wills and trust associated with the Estate of J. David Salinas, meetings with the family of J. David Salinas and their counsel to discuss the overall situation;

q. Accomplish control of all mail to the various entities associated with the receivership, review and respond to mail as needed;

r. Travel to and meet with the representative of Select Asset Capital Management to review all loans in Fund I and the Prime Fund and map out strategies for collection of those loans.

General Summary of the Receivership Estate's Assets and Liabilities

5. At this point, the Receiver has identified the following assets:

a. **Real Estate (actual values and total indebtedness are not yet confirmed)**

i. **Salinas Home** – The Estate of J. David Salinas has an interest in the home formerly occupied by him and currently occupied by his wife and their minor child;

ii. **Bay Home** - The Estate of J. David Salinas owns a home on Galveston Island;

- iii. **Friendswood Office** - The J. David Financial Group LP owns an office building in Friendswood, Texas where it operated some of the business of Mr. Salinas;
- iv. **Parkway Pawn** – A building and land on I-45 in Dickinson, Texas houses an operating pawn shop;
- v. **Pearland home** – The Estate of J. David Salinas has an ownership interest in a small home in Pearland, Texas;
- vi. **New Ulm lot** - The Estate of J. David Salinas owns an undeveloped lot in New Ulm, Texas on a golf course.
- vii. **Lake House** - It is possible that the Estate of J. David Salinas has an ownership interest in a small lake house at Lake Livingston, Texas.

b. **Insurance Policies**

- i. The Receiver has identified five insurance policies on the life of J. David Salinas with a total death benefit of \$15,765,000.

- 1. Three of the five policies were owned by the J. David Financial Group LP from inception and the beneficiary on each of those policies was the J. David Financial Group LP until June 23, 2011. At that time, Mr. Salinas purported to change the owner on one of the policies and most of the beneficiaries on all three policies from the company to various individuals. The Receiver has been in contact with each person newly named as a beneficiary to the policies and requested that they assign their interests in the policies back to the Receiver. Most of the beneficiaries have cooperated and assigned those interests back to the Receiver. Those that have not yet done so are waiting on some additional

information from the Receiver. If these assignments cannot be obtained by agreement, claims will be made in the Receivership court to require the return of these interests to the receiver.

2. Two of the five policies identified were originally owned by J. David Salinas and ownership on one of those policies was changed and again all the beneficiaries were changed. The same process as described above is underway to obtain assignment of all of the beneficial interests on these policies to be used for the benefit of all affected investors and creditors.

- c. **Loans** – Select Asset Management Fund I and Select Asset Prime Index Fund have made 20 loans, either as maker or as a participant. The records with respect to each of these loans have been substantially located. The individual that had the key role in the credit underwriting for most of the loans has been interviewed and the receiver has a working knowledge of each transaction. Each maker of each note has been put on notice of the Receivership, that they should continue to pay the loans as agreed and been advised as to where to make the payments. Some of the loans are past due, some are in default and some are possibly of negligible value. The Receiver's investigation of each of these loans, the ability of the borrower to pay off matured loans and possible efforts that may have to be taken to liquidate collateral for the benefit of the respective Fund maker continues.
- d. **Bank Accounts** – 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 and funds that are paid on loans from those

respective funds will be segregated for now. The preliminary investigation indicates that funds that were invested in Fund I and the Prime Fund may have been kept separate from other funds of the Defendants. Access to the financial books of Select Asset Management and the respective funds were substantially delayed beyond the appointment of the Receiver due to the fact that the Secret Service had possession of the records and had justifiable need for access to those records before the receiver was permitted to obtain a copy.

- e. **Consulting Business** - Select Asset Capital Management has a series of engagements to provide consulting services to various banks and other businesses with respect to debt structures and the location of capital. The receiver is evaluating this business to determine its potential value to the process.

Claims Administration

6. On September 16, 2011, the Receiver filed with the Court his Receiver's Unopposed Motion to Establish Claim Procedure and Claim Form. On September 20, 2011, the Court approved the proposed procedure and form. The procedure for making and approving claims is as follows.

7. The Receiver has obtained approval of a claim form that will solicit the information that he believes will be needed to complete a basic forensic reconstruction, assess and verify claims, and propose a distribution plan.

8. The Claim Form requests information necessary to permit the Receiver to evaluate investor and trade creditor claims. The claims verification process will need to be conducted with reference to investment and bank records. Accordingly, considerable information is being requested. Additionally, there are a number of different investments that all appear to have been solicited in common and for which the funds received were commingled by

the Defendants. The nature of the solicitation process is important to evaluate from the perspective of establishing classes for distribution. Accordingly, certain information with respect to that issue has been included on the claim form.

9. The Receiver has posted the Official Claim Form on a website that he has established, and will send a letter to all identified investors and creditors for which the Receiver has an address. If it is determined that an investor on the books of the receivership entities has not filed a claim form within a reasonable time, additional contact through the mail will be made.

10. The Receiver has further developed a cover letter to be sent along with each Claim Form that is mailed giving instructions on how to complete and file a claim. Likewise, the Receiver has posted the essential information in that cover letter on the Receivership website.

11. The Claim Form states that it must be returned to the Receiver within sixty (60) days after the Claim Form is mailed to the potential claimant. The Receiver proposes that Claim Forms must be returned to the Receiver within sixty (60) days after the Claim Form is downloaded by a potential claimant from the Receivership website or e-mailed to a potential claimant. The Receiver will make every effort to see that all affected persons have an opportunity to file a claim and will exercise discretion on any determination of whether the failure to file a claim form within that period is a ground for disallowance of a claim.

12. As Claim Forms are received, the Receiver will assign a sequential claim number to be used to identify the claim during further proceedings before this Court. Further, following receipt of a Claim Forms, the Receiver will send a post card to the claimant acknowledging the claim and providing notice of the assigned claim number.

13. Claims will be reviewed and compared to the records obtained from the Defendants. If approved by the Receiver, they will then be submitted to the Court for approval. The Court approval of a claim will not, in and of itself, establish any priority as to ultimate payment of the claim. Further, the allowance of a claim will not determine when the claim will

be paid or the actual amount of the claim that will be paid. Rather, priority of payment and payment of all claims will be authorized by future Order of the Court.

14. Distributions will be made only according to a plan approved by the Court. Distributions to claimants can only occur after all claims have been reviewed and approved as well as when there are sufficient liquid assets to distribute. The claims process may take as long as a year and the liquidation of assets may take longer.

Current View of Potential Recoveries

15. At this preliminary stage, it is the Receiver's plan to prudently market and sell the real estate and business assets of the receivership for the highest prices obtainable. It is the Receiver's plan to make claim on all insurance policies and to aggregate those policy proceeds. All sales of real estate or businesses must be approved by the Court following a motion to the court and hearing if necessary. It is acknowledged that the market for real estate has been down for some time. Depending on the equity in each of the properties, appropriate action will be taken to either sell, hold or abandon properties so as to maximize the return of cash to the estate. It is too early to tell at this time what price the assets will sell for, the relative costs associated with the sales or the potential recovery benefit to the Receivership estate. As assets sell, information will be posted on the Receiver's website along with periodic basic balance sheet information to give a more accurate indication of the size of the distributable estate.

16. The Receiver is actively making claims on all insurance policies and will aggregate those funds for the benefit of investors. As well, the Receiver has preliminarily evaluated the loans in Fund I and the Prime Index Fund and will be taking steps to seek full payoff of these loans and the possible sale of other loans that cannot or are not required to be paid off at this time.

17. The Receiver is also engaged in an analysis of the flow of funds in and out of the various Defendants' bank accounts and entities and will formulate a plan in the near future on claims to be brought for the return of funds wrongfully paid to third parties.

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

Respectfully submitted,

/s/ Steven A. Harr

Steven A. Harr

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ATTORNEY'S FOR THE RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 2011, a true and correct copy of the foregoing document has been served electronically on Counsel for the SEC.

/s/ Steven A. Harr
Steven A. Harr

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