

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 THIRD 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 Third Interim Report and for same states as follows:

**Introduction**

1. A Preliminary Report (Dkt# 25) was filed by the Receiver on September 27, 2011. On November 3, 2011, (Dkt# 35) the Receiver filed his Second Interim Report. The Receiver provides periodic reports to the Court as the matter progresses and based on the accumulation of important information.

2. This report is based upon the continued investigation conducted by the Receiver and his agents, which has included witness interviews, conferences with involved officials, the

continued forensic analysis of financial records, reviews of documents maintained by the Defendants and obtained from investors or third-parties, periodic site inspections of all assets of the related entities and the day-to-day operations of the involved business of Parkway Pawn.

3. The Report includes (a) a general summary of the work done to-date, (b) a update as to the Receiver's preliminary 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. This report is an update for the reason that the investigation continues, but it is not the result of a completed investigation. Future reports will provide 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. The business premises on Washington Avenue in Houston and Edgewood Drive in Friendswood have been closed and all documents, computers and other business materials have been moved to a secure location at the Receiver's office;

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 and daily operation of the Parkway Pawn business operation to facilitate loan payments, recovery of property and maintenance of the on going business of Parkway Pawn and to satisfy the demands of the regulatory agencies of the State of Texas over pawn shops as well as to maintain its value for sale. As well the Receiver has worked with the Office of Consumer Credit for the State of Texas to facilitate the change of official ownership of the pawn shop into the name of the Receiver so as to facilitate the sale of the business in the months to come. The Receiver has employed a consultant to value Parkway Pawn and to assist in the sale. He has also put the pawnshop on the market and at the time of this report, has five interested buyers that he will negotiate with as soon as the property settlement with the Salinas family is concluded (described below).

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 and 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 financial institutions to freeze all identified bank accounts and transfer frozen money to accounts maintained by the Receiver. The Receiver has either requested or subpoenaed all bank statements dating back to 2004 for all bank accounts used by the entities involved in the Receivership so as to facilitate a complete forensic accounting. This process is slow due to the policies of the financial institutions and the length of time in issue as well as the fact that there are approximately 60 accounts involved.

g. Through both the investigation and the claims process, 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, obtain an order approving

the process and forms and begin the process of accepting and reviewing claims. The Receiver was substantially delayed in getting what is believed to be a complete mailing list of all investors due to confusion as to the location of the list and passwords that protected the computer system containing the list. A list has been obtained and claim forms have been mailed. The list on the computers of the company was not complete. The list is being updated as new claims are sent in that come from people not on the computer list.

i. Establish within a few days of the Receiver's appointment an information website ([www.selectassetreceiver.com](http://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. The Receiver has filed claims on \$12,900,000.00 in death benefits for receipt by the Receivership and collected the sum of \$11,989,162.92 (including interest). A substantial portion of this money has been invested with permission of the Court in bank certificates of deposit insured by the FDIC. The Receiver has continued efforts to communicate with the insurance companies to satisfy their requirements and gather the information necessary to file on the remaining death benefits. Some of the death benefits were transferred by J. David Salinas a few weeks before his death to individuals who he apparently knew during his life time. Requests have been made on those purported beneficiaries to disclaim their interest in these last minute transfers and most of those to whom the transfers were made have cooperated with the Receiver and returned those interests so as

to avoid the time and expense of asserting claims for fraudulent transfers and other claw back remedies available to the Receiver. A limited few of the purported beneficiaries, although cooperating, have requested information from the Receiver that will be provided at the end of February 2012, to demonstrate the basis on which the Receiver (and thus the victimized investors) have the right to the proceeds as opposed to a few who Mr. Salinas tried to protect at the last minute.

l. 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;

m. Obtain permission of the court to employ an experienced claims manager for all investor and creditor claims to be made in the Receivership claims process;

n. Analyzed and understand the elaborate wills and trusts created by J. David Salinas and conduct extensive negotiations with the family of J. David Salinas and their counsel to arrive a property settlement. This process was substantially slowed by the delay experienced in the probate court in Galveston County and its execution of the order appointing the Executrix of the estate of J. David Salinas. The appointment has occurred, negotiations with the family are near an end and the Receiver believes he will have a settlement with the family by the end of February. The full details of the settlement will be submitted to the Court and posted on the Receiver's website for all to read and know.

o. Accomplish control of all mail to the various entities associated with the Receivership, review and respond to mail daily;

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

**General Summary of the Receivership Estate's Assets and Liabilities**

5. As reported in the Second Interim Report (DK# 35), the Receivership estate is composed of various types of assets. This Third Interim Report will update the previous reports without repeating information on the assets that remains unchanged:

- a. **Real Estate** - The real estate assets have not expanded or contracted and continue to include the Salinas home, Bay home, Friendswood office, Parkway Pawn, the Pearland home and the New Ulm lot.
- b. **Insurance Policies** - No new insurance policies have been identified. In the Second Interim Report, the Receiver reported that there was \$3,000,000 remaining to be collected on certain policies that had last minute ownership and beneficial interest changes. The actual number was \$3,600,000 remaining to be collected. The Receiver has collected approximately \$750,000 of that balance and the amount still in issue is \$2,850,000.
- c. **Salinas Family Trust Insurance Policies** - There are three insurance policies held by an irrevocable family insurance trust. The death benefits total \$2,350,000. The Receiver is investigating the history of these policies, the sources of funds used for payment of the policies and claims that the Receiver may have to the death benefits. No claims have been made on these policies because there is no current trustee of the trust. The Receiver has negotiated with the family to seek the appointment of the Receiver as the trustee of these trusts so that claims can be made and the proceeds held pending a completion of the investigation and a resolution of the family's interests, if any, in these death benefits.

b. **Loans** – Select Asset Management Fund I and Select Asset Prime Index Fund have collectively 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 the loans (not including the inter-J. David 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. An updated summary of the current understanding of these loans is as follows. The identity of the maker and guarantors of the notes 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 has made demand and will file Motions with the Court to order payment.	It does not appear that this loan was collateralized.
\$1,575,000	\$72,981 plus interest	Matured; unpaid; demand has been made; working with borrower on payoff	Residential real estate;

\$500,000	\$490,000 plus interest	Mature; unpaid; Borrower is avoiding the Receiver; demand is being made and Motions will be filed shortly with the Court ordering the debt paid.	Unsecured, but with significant personal guarantees
\$500,000	\$500,000 plus interest	Matured; borrower discharged in bankruptcy; total loss	None
\$1,965,000	\$1,965,000 plus interest	No documentation; loan is due; unpaid; loan to related J. David entity; Receiver to meet with principals in February; preliminary indications are the borrower can't pay the loan.	None
\$300,000	\$300,000 plus interest	No documentation; due; unpaid; loan to related J. David entity; may have been rolled into the preceding listed loan.	None

### Select Asset Fund I LLC Participations Purchased

\$1,000,000	\$991,098.03	Current and performing	Commercial real estate
\$2,000,000	\$1,734,441.64	Matured; loan collateral is impaired; in process of restructure by lead lender; Receiver has been approached to sell the participation for	Commercial real estate

		62% of balance.	
\$500,000	\$497,271.41	Current and performing	Commercial real estate and UCC assets
\$1,000,000	\$936,884.04	Current and performing; matures in April 2012	Commercial real estate
\$500,000	\$500,000	Paid	Commercial real estate

### Select Asset Prime Index Fund LLC Notes

\$250,000	\$250,000	Paid off in October	Assignment of Payment Rights from Municipality
\$400,000	\$400,000 plus interest	No documentation; due; unpaid; loan to related J. David entity; may be treated as a claim in the J David receivership	None known
	\$556,405.12 plus interest	No documentation; due; unpaid; loan to related J. David entity; may be treated as a claim in the J David receivership	None known
\$1,000,000	\$1,000,000 plus interest	Pool of loans, covenants violated, distributions suspended; no distribution expected this quarter.	Commercial Debt Obligation Fund
\$1,000,000	\$500,000 plus interest	Matured; unpaid; demand has been made; working with borrower on payoff	Secured by assets in SAM brokerage accounts
	\$810,000 plus interest	No documentation; due; unpaid; loan to related J. David entity; Receiver to meet with principals in February; preliminary	None known

		indications are the borrower can't pay the loan.	
\$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	\$150,000	Current and paying as agreed.	Commercial Real Estate

- c. **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, Prime Fund and Parkway Pawn have been kept separate from other funds in the receivership and money that is paid on loans in Fund I and Prime Fund and from the operations of the pawn shop will be segregated for now. The preliminary investigation indicates that funds that were invested in Fund I, Prime Fund and Parkway Pawn may have been kept separate from other funds of the Defendants. The Receiver has discovered that there have been substantial loans made from Fund I and Prime Fund to related J David entities and is considering whether these acts are sufficient to warrant pooling of all assets in the estate for the benefit of all investors.
- d. **Consulting Business** - Select Asset Capital Management had 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 has met with Mr. Bradley regarding these engagements and worked out a plan to wind down these practices with the Receivership getting paid for those fees that are due for work done to date. As Select Asset Capital Management is no longer in business, the Receiver has agreed to allow Mr.

Bradley to continue these engagements on his own and separate from any control by the Receiver. .

### **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. At the time of this report, the Receiver has received 259 A claims from 130 separate entities/people for a gross amount of \$51,013,206.00. This number is very "soft" as these claims have not been reviewed for accuracy and in all likelihood represents an overstated amount. The Receiver has received 9 B claims for a total of \$95,884.09

7. 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**

8. The Receiver's plan to complete the settlement of the J David Salinas probate estate and interests of the family in all community and separate property and then prudently market and sell the real estate and business assets of the Receivership for the highest prices obtainable. 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 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.

9. For those insurance policies that the beneficial interests were in the name of a Receivership entity or have been assigned to the Receiver, claims have been made and funds collected and invested. For those portions of the insurance death benefits that are in issue with third parties, it is the Receiver's plan to make a presentation to these beneficiaries near the end of February and ask for those beneficial interests to be assigned back to the Receiver. In the event that there is a disagreement, the Receiver will either discuss a settlement or bring claims in this Court seeking a judicial resolution.

10. 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. All borrowers have been contacted and where there is resistance to payment of loans that are due, appropriate motions will be filed this month asking the Court to order the borrowers to pay the debt.

11. The Receiver is also engaged in an analysis of the flow of funds in and out of the various Defendants' bank accounts and entities. This process has matured significantly and the Receiver expects to formulate a plan in the next 60 days on how to pursue claims for the return of funds wrongfully paid to third parties.

12. The Receiver has established an e-mail at [www.selectassetreceiver.com](http://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 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 7<sup>th</sup> day of February 2012.

/s/ Steven A. Harr

Steven A. Harr

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