

Trustee's Newsletter #13

Tuesday, 24 February 2009

Dear Victims, Creditors and Other Interested Parties,

The last 45 days have been fairly intense. Primary objectives have been to focus on finalizing the insurance settlements, settlements with certain professionals, preliminaries on the Wachovia litigation, firming up an agreement with the class action representatives attorneys to cooperate and to share recoveries and a concentrated effort to finalize and file the plan of reorganization and disclosure statement. All of these undertakings have progressed nicely.

The settlements with two of the law firms who represented Mr. Okun prior to the bankruptcy have been finalized. One has been executed and one has been agreed in principle and should be executed shortly. Approval will be sought as part of the plan confirmation process. Those settlements, if approved, will yield approximately \$13.3 million to the estate.

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Settlements with the insurance companies that issued the crime policies were finalized this week and, here again, will be presented to the court for its review and approval as part of the plan confirmation process. These settlements will produce approximately \$23 million to the estate.

The plan and disclosure statement were filed with the court on Friday, February 20. The disclosure statement has not as yet been approved by the Court, and we will be asking the Court for a date for the approval hearing shortly. Until it is approved by the Bankruptcy Court, it may not be used or relied upon to solicit acceptance or rejection of the plan.

After many requests from the creditor constituency, the US Trustee's office has agreed to expand the creditors' committee by two members. They are Elizabeth Callanan and Grande Investments LLC.

We have filed a suit against W.H. Hialeah Investors V, LLC to recover what we believe to be a fraudulent conveyance, and are still pursuing actions against other professionals and banks.

In an ancillary litigation matter, the injunction that we were able to obtain staying the litigation brought by several exchangers against the McCabes in Denver expires on March 10, and we have accordingly made a motion, scheduled for March 9, to extend the injunction through the plan process. Also on the calendar for March 9 is a hearing to approve the settlement with the McCabes.

We have reached settlements with the other sellers of QI businesses to the 1031 Tax Group, as well as a related settlement with the carrier of the Errors and Omissions insurance policy. These settlements (including the McCabe settlement), if approved, would collectively bring approximately \$6.5 million into the estate and will release claims against the estate of approximately \$4.4 million.

This month we reached an agreement with the Class Representative and Class Counsel, pursuing a class action litigation in the Northern District of California and have submitted that agreement to the Court for approval. The hearing is scheduled for March 17, 2009. Under the terms of the arrangement, Class Action counsel will continue to represent class-action plaintiffs (which would include all of the exchanger-creditors assuming that the class is certified), thereby ensuring that the benefits of any settlement or litigation recovery will be received by the exchanger-creditors regardless of whether received under the bankruptcy action or under the class-action litigation. Under the terms of the agreement, generally the Class Action counsel will receive compensation based on their regular hourly rates for obtaining approval of the class action court for settlements already reached or nearly reached, and will be entitled to enhanced compensation, subject to strict limitations and court approval, with respect to with claims against Wachovia and Lockton and other claims we may pursue jointly. This is a crucial component of our strategy to effect the largest possible recoveries, and to assist in the plan confirmation process. One of the benefits of this agreement is the "belt and suspenders" protection for the exchanger-creditors in that certain defenses which might be raised against the trustee will not be available against the class action plaintiffs and likewise, certain defenses potentially available to the defendants in the class-action litigation are not available to be raised in the trustee's actions. The agreement and the motion to approve it are on the website, and I recommend that you read them.

The claims reconciliation process is now well underway. Initially we will be focusing on reconciling the actual amounts held by the qualified intermediaries to those amounts reflected in the proof of claims and any contractual interest claimed.

Initially the Plan will provide for distributions based on those amounts, before considering additional items such as attorney's fees or other damages beyond the actual lost deposit and interest.

As of this writing, the criminal trial of Mr. Okun is scheduled to begin in Virginia on March 3.

Best Regards,

Gerard A. McHale, Jr.

/s/

Gerard A. McHale, Jr.

Chapter 11 Trustee

The 1031 Tax Group, LLC.