

ROBB EVANS
Receiver of the Redress Fund for Bigsmart.com

REPORT OF RECEIVER'S ACTIVITIES
May 12, 2001 through July 27, 2001

Appointment and Previous Events

On March 23, 2001, this Court entered an Order appointing Robb Evans as the Receiver to administer the Redress Fund and the claims process established by the Stipulated Final Judgment and Order for a Permanent Injunction and the related Stipulated Final Order Approving Settlement Agreement in the action Federal Trade Commission vs. Bigsmart.com L.L.C., et al. These Orders were approved on March 21, 2001 and were entered on March 23, 2001.

In May the Receiver filed his first report of activities for the period March 21, 2001 through May 11, 2001. In that report the Receiver described initial difficulty in establishing contact with American Express Card Services (AMEX) and the need to Notice a Hearing for an OSC Re Contempt for the failure of AMEX to comply with the Court's Orders. After the Hearing, which was continued by the Court, AMEX and the Receiver's office did establish and maintain satisfactory communication. AMEX is now providing additional data for the initial accounting to support its claim.

As stated in the Receiver's first report, Visa U.S.A., Inc. (Visa) and MasterCard International Incorporated (MasterCard), after some delay, agreed to comply with the provisions of the Orders "to the extent it would be feasible" or "until such time as the Orders were vacated or clarified." However, the Visa and Mastercard systems continue to hold back re-presented (defined as arbitration) chargeback amounts from the merchant banks and, effectively, are not complying with the Orders. On May 21, 2001, Visa and Mastercard filed a Notice of Appeal from the Permanent Injunction. The parties are responding to the Notice of Appeal.

Harris Trust and Savings Bank (Harris Bank) has responded to the Notice of Appeal, and a letter from Visa and MasterCard claiming potential indemnification, by expressing concern about its future liability. Harris has also refused to agree that June 1, 2001, was the final date to turn over the credit card reserve account to the Redress Fund and has, in fact, not turned over any funds to the Receiver. Counsel for Bigsmart.com L.L.C. (Bigsmart) and the Federal Trade Commission (FTC) will be discussing the impasse with Harris Bank.

The Redress Fund continues to incur expenses for electronically tabulating claim forms received from potential claimants, and should be ready to make an initial distribution later this year. The Redress Fund has also incurred legal expenses related to the second mailing of claim forms and may incur additional legal expenses as a result of the actions of Visa and MasterCard.

Progress of Claims Administration

As stated in the Receiver's first report, 83,711 claim forms were mailed to potential claimants in two mailings, with the second mailing completed May 15, 2001. The potential claim liability shown in the claimant database was \$14 million.

As of July 27, 2001, the Receiver's claims administrator, Analytics, Inc., had processed 63,167 claims, resulting in 47,540 unique claims, totaling \$11,097,936. Claimants requesting larger amounts than calculated by Bigsmart have so far totaled 5,835. About 4,000 claims still remain to be processed. For the most part these are from claimants requesting larger amounts, and such claims require more time to be recorded. However, Analytics, Inc. believes the initial recording of claim data will be complete by August 15th.

During the week of July 30, 2001 the Receiver will send, through an email service company, an email message to the 48,000 unique claimants that will include a status report on the refund procedure and an outlook for future steps. After a review of the completed data, and a sample of the electronically scanned claim images, the Receiver will recommend final claim review and administration procedures to the parties and to the Court.

Financial Report

Under Tab 1 is the Receiver's Report of Receipts and Expenses from the March 21, 2001 inception of the Receivership through July 27, 2001, including expenses previously approved and expenses incurred during this reporting period. At the direction of the Receiver, the law firm of Quarles & Brady Streich Lang LLP (Quarles Firm) has provided legal service to the Redress Fund. Pre-negotiated expenses related to claims processing and legal fees are the largest expense items incurred during this reporting period. While claims processing will be sharply reduced, it is unclear how much legal service the Redress Fund will need in the future.

The Receiver also requests the Court to authorize, as part of this report, the Receiver to pay routine reoccurring expenses, such as utilities, office supplies, delivery, and postage as they are incurred, with full reporting in periodic Reports of Activities.

Recommendation

The Receiver respectfully requests that:

1. This report be approved;
2. The expenses paid and incurred, including amounts payable to the Receiver and to the Quarles Firm, be approved;
3. The Receiver be authorized to pay routine reoccurring expenses as they are incurred, with full reporting in periodic Reports of Activities;
4. All actions of the Receiver completed to date are approved.

Respectfully submitted,

Robb Evans
Receiver