

# **Second Report to the Court**

**As of September 30, 2001**

**Robb Evans, Trustee**

**In the Matter of United States of America v. Larry Wilcoxson, et al.**

**U.S. District Court for the Eastern District of California, Case No. CR-S 99-0359 DFL**

**Submitted October 31, 2001**

This is the second report to the Court. The purpose of this report is to:

- Provide a current summary of major issues handled by the Trusteeship.
- Update the Court regarding the status of various issues addressed in the previous report.
- Request confirmation or approval of the Trustee's activities to date.

This report does not constitute an audit of the financial condition of the Trusteeship; it is intended only for the information of the Court and should not be relied upon for other purposes.

## **Background**

I have collected and reviewed copies of documentation held in the custody of the U.S. Attorney's Office, and with the Special Agents of the Federal Bureau of Investigation ("FBI"), and the Internal Revenue Service ("IRS") pertinent to the forfeited assets. I have taken control of most of the forfeited assets, and have initiated steps to trace money transfers and other diversions, and to pursue all possible sources of recovery.

## **Financial Statements**

Attached for the Court's reference are the following financial statements which illustrate the financial operations of the trusteeship:

1. Statement of Operations, for the period March 1, 2001 to September 30, 2001 (the current reporting period);
2. Statement of Operations, for the period October 19, 2000 (inception of the trusteeship) to September 30, 2001; and
3. Comparative balance sheet, comparing balances on October 19, 2000 (inception of the trusteeship) February 28, 2001, and September 30, 2001.

## **Follow Up of Forfeited Assets**

### ***Assets Collected (1 a, b, d, e, o and r)***

All bank accounts described under paragraph 1 (a) and (b) of the Forfeiture Order ("Order") have been unfrozen and balances recovered. Net proceeds of sale of specific assets described under paragraph 1 (d) and (e), and restitutions and settlements described under paragraph 1 (o) and (r) have all been recovered and invested.

### ***Real Property at Twenty-Six Mile Road, Oakdale, California (1 c)***

This property, known as Oakdale Ranch, was purchased with investor funds. It consists of two parcels of undeveloped agricultural/rural land totaling 511.05 acres located in Stanislaus County. We have obtained a professional appraisal from an appraiser who is a Member of the Appraisal Institute (MAI). We interviewed several real estate brokers about listing the property and were concurrently using our contacts to market the property (prior to listing) to save a 6% to 10% commission.

The Oakdale Ranch was encumbered by two liens: one in favor of Oakdale Irrigation District, and the other a mechanics lien. I paid off the two lien-holders upon an Order from this Court. The issues relating to the property leases

have been resolved. My petition with the County officials seeking exemption from real estate taxes for the period of ownership by the United States has recently been approved.

I have recently signed a contract for sale of the property without listing it, and obtained a non-refundable deposit. There will be no commission paid on the transaction. I anticipate closing the sale before December 31, 2001.

### ***Lexus RX300 (1 f)***

A family member of one of the defendants was using the 1999 Lexus purchased with investor funds. We took possession of the vehicle, resolved the title and registration issues with the Department of Motor Vehicles, and sold it for a net of \$27,862.87, which was above dealer/market value.

### ***Notes Secured by Deeds of Trusts (1 g)***

We have reviewed the note histories and payment records to decide on the recovery action in many cases where the notes have been delinquent. A brief description of the action taken on each of these notes follows (itemized as per the Order - g 1 to 13):

1. The note for \$20,000 made to Wilcoxson from Bambi Marquez has been delinquent since inception in 1999. As the Trust Deed securing the note received from the FBI was unrecorded, we reviewed the title report prior to recording and found out that Marquez apparently transferred title to the property to a relative before the appointment of the Trustee. We are investigating a possible fraudulent conveyance action.
2. The note from Raymond Lee for \$40,000 is now being serviced as agreed.
3. The payment under the note for \$120,000 was collected on June 28, 2001.
4. The debtor has completed construction of a single family home on the lot securing the note for \$120,000. We anticipate closing of the sale and pay off in about 30 days.
5. The debtor was funded only \$102,000 under a note executed for \$120,000. Pursuant to the terms of a stipulation agreed to by the U.S. Attorney and approved by the Court (the "Stipulation") before the appointment of the Trustee, we have disbursed \$18,000 to complete construction and to sell the property. The debtor anticipates selling the property before the end of the year.
6. The debtor was funded only \$66,000 under a note executed for \$120,000. Pursuant to the Stipulation referenced above, we have agreed to disburse \$54,000 to complete construction and sell the property.
7. The debtor was funded only \$84,000 under a note executed for \$120,000. Pursuant to the Stipulation referenced above, we have disbursed \$36,000 to complete construction and sell the property. The debtor anticipates selling the property by the first quarter of next year.
8. The payment under the note for \$120,000 was collected on June 19, 2001.
9. A note to JRAM International for \$380,000 from Gilton's family ranch is overdue. The debtor, a developer, has agreed to complete construction of the ranch home before March 2002, and sell it or refinance it to pay the Trustee in full.
10. The payment under the note for \$100,000 was collected on April 10, 2001.
11. The payment under the note for \$30,000 was collected on December 5, 2000.
12. A note to Sundial Financial ("Sundial") from Robert John Blackstar for \$20,000 is secured by a second trust deed and is due on February 1, 2002. The debtor has arranged for refinance. I have agreed to a temporary forbearance, and expect settlement before November 30.
13. A note to Sundial from John Shearer for \$156,000 is delinquent. I initiated foreclosure proceedings on September 6, 2001. The reinstatement period will expire on December 6, 2001 and a sale date will be set some time in January 2002. Shearer has not, so far, done anything to stop the foreclosure. Shearer's attorney filed a lawsuit against Sundial alleging violation of usury laws and seeking as a remedy to discharge Shearer from the obligations. Sundial's attorney filed a motion to set aside a default against Sundial, which was granted. The Trustee has retained counsel, Frederick W. Smith, Jr., to represent the government's interests in this matter.

### ***Farm Equipment [(1) h, i, j, k, l, m & n]***

As indicated in my previous report, most of the farm equipment listed in the Order was either missing or being used in different locations by acquaintances of Larry Wilcoxson ("Wilcoxson") after his arrest in 1999. I located most of those

items, marshaled them to one location and after appraisal by a reputable firm, sold them at or above appraised values for about \$75,000, net of commission and expenses. The three items that could not be located were an old all terrain vehicle (one of the five items - worth about \$2,000, listed under 1 (l) of the Order) and two vehicle ramps (worth about \$100 each and listed under 1 (m) of the Order).

### ***Bank Account in Western Samoa (1 p)***

The Order, by paragraph 1 (p), provided for the forfeiture of approximately \$500,000 in a bank account in Western Samoa in the name of World Cultural Center. In examining the bank records of JRAM International, I identified an additional \$1 million transfer to the World Cultural Center on August 2, 1999. This was the same date the \$500,000 transfer listed in the Order was made from the C. William Gordin Accountancy Trust account. Both of these transfers were made just days prior to Wilcoxson's arrest. William Gordin had confirmed to my colleagues that the \$500,000 was transferred from his Trust Account based on telephone instructions from Wilcoxson.

The World Cultural Center bank account in Western Samoa is frozen pursuant to a separate criminal investigation being conducted by the U.S. Attorney's Office for the Western District of Washington and the Securities and Exchange Commission in Denver, Colorado. Charges have been filed against several individuals in connection with an investment program operated by a company called Meliorations Management. Millions of dollars were transferred to the World Cultural Center account and to other accounts in Western Samoa in that case. Trial is scheduled to commence early next year. Recently, \$6.7 million of the funds frozen in Western Samoa were repatriated to the U.S. District Court for the Western District of Washington and a Receiver has been appointed. I have filed claims with the Western District U.S. Attorney's Office and with the Receiver appointed on the nomination of the Securities and Exchange Commission seeking the return of the \$1.5 million of Wilcoxson investor funds. The Receiver has advised my counsel that no restitution plan has been formulated and no distributions will occur until sometime next year, after the conclusion of the trial. The likely percentage of recovery is unknown at this time.

### ***Asset Tracing and Substitute Assets***

The Forfeiture Order and the Order Appointing Trustee listed specific assets forfeited totaling \$7.195 million. Our optimistic estimate of net recovery from the liquidation of all forfeited assets is about \$6.5 million. As this allows for pursuing other substitute assets (subject to \$7.195 million in assets permitted under the Forfeiture Order and any additional Orders made by this Court), I have been investigating and attempting to trace several millions of dollars diverted by the defendants from the IFR funds.

I am working in coordination with the U.S. Attorney's Office and I intend to approach the Court for necessary Orders to pursue the leads once I am able to complete forensic examination of the books and records and establish the sources and destination of diverted funds.

### **Restitution Trustee Matters**

In my capacity as Restitution Trustee, pursuant to my appointment by the Attorney General under 28 C.F.R. Section 9.9(c), on March 23, 2001, I mailed, and also posted on my web site, a detailed Announcement on my appointment as the Restitution Trustee and related information, to all the known investors and creditors. The web site also has a copy of the First Report approved by the Court. On or about June 18, 2001, about 1,600 Restitution Petitions and Questionnaires were mailed to every known investor in our database.

The following is an approximate timetable of possible dates in the restitution process:

- November 30, 2001 is the deadline for petitioners to resubmit incomplete petitions and questionnaires.
- A forensic reconciliation of all the petitions with the available investment and bank records is expected to be completed by February 28, 2002. Petitioners will be sent confirmation as to whether their petitions have been accepted for recommendation to the Attorney General and the eligible amounts of their claims. There will be 30 days allowed from the date of mailing the acceptance or denial of the petitions, for the petitioners to submit appeals.
- I plan to finalize my recommendation to the Attorney General by April 30, 2002.

- I plan to complete most of the liquidation of the forfeited assets by June 30, 2002.
- Subject to receiving approval from the Attorney General, the eligible petitioners will be advised of the amount of restitution payments that are likely to be disbursed.
- From the current estimates of the tasks involved, I anticipate distribution of the restitution payments, to eligible petitioners and creditors, in the third quarter of 2002.

### **Concluding Remarks**

The Court is respectfully requested to approve this report and confirm the Trustee's actions and expenses described herein.

Respectfully submitted,

Robb Evans  
Trustee