

**ROBB EVANS**  
**Receiver of Enjoy Foods International**

**REPORT OF RECEIVER'S ACTIVITIES**  
**DECEMBER 14, 2000 THROUGH FEBRUARY 28, 2001**

This report covers the activities of the Receiver since his appointment. This is the First Report to the Court on the progress of the receivership. It does not constitute an audit of financial condition and is intended only to provide information for use by the Court in assessing the progress of the receivership.

**Premises and Personnel**

Upon entering the premises of Enjoy Foods International (EFI) on December 14, 2000 a copy of the Court Order was served on Mr. Leray Heyne, "Chief Executive Officer" of the company and son of the defendants, Norman and Loretta Heyne. Norman and Loretta Heyne were not present and were not expected that day.

All personnel of EFI were employees of Accord Human Resources, a provider of full human resource needs to smaller companies. There were approximately 50-60 employees on site and the company was in full production at the time of our arrival. Most of the plant personnel were union employees.

All employees were discharged at the end of that day except for a skeleton crew (see Inventory and Production comments). The balance of the employees were terminated on Friday, December 22, 2000. We were able to obtain the final payroll for all employees from Accord Human Resources that morning and it was distributed.

Norman L. and Loretta Heyne arrived at EFI on Friday, December 15, 2000, at which time they were served a copy of the Court Order. Neither defendant has been actively involved in the day-to-day operations of EFI for some time. They had, however, been maintained on the payroll as employees and were informed that their employment was terminated upon the signing of the Order.

**Inventory and Production**

EFI management informed us that finished goods inventory, plus the value of products in various stages of processing, if completed, would result in approximately \$125,000 of additional sales.

In an attempt to preserve the assets and maximize the greatest return to creditors we decided to maintain a skeleton crew of 10 to 12 employees, including plant management personnel, plus a cleaning crew of three, for one week. This would allow sufficient time to complete the in process inventory and ship all available products. This decision was based on a careful review of the anticipated realized value of the finished goods vs. the added costs of production to complete the process and ship the goods. EFI had orders on hand for approximately \$200,000 worth of products and we estimated that 95% to 98% of all products would match the pending orders.

We were successful in converting the in process inventory to finished goods and shipped virtually all inventory by Friday, December 22, 2000. At that time all remaining employees were terminated, the plant was closed down and the premises secured.

**Cash In Bank**

On December 14, 2000, EFI's bank balance was approximately \$15,000.00. Additional deposits of approximately \$9,000.00 were credited to the account. The total of the funds (approximately \$24,000) was taken and applied to the loan balance, under the right of offset, by the Plaintiff, City National Bank. Under Tab 1 is the January 31, 2001 cash position of the Estate.

## **Accounts Receivable**

We retained the services of the controller for EFI to assist us in the collection of accounts receivable. The accounts receivable balance totaled approximately \$175,000 as of December 14, 2000. During the final week of production we billed an additional \$122,000 in sales, for a total accounts receivable balance of approximately \$297,000. As of February 28, 2001 we have collected \$186,000 and are continuing to work on the collection of an additional  $\pm$  \$41,000. The balance of  $\pm$ \$70,000 is disputed items for spoilage, advertising claims, unpaid shipping fees, etc. The likelihood of collecting any significant amount of this balance is minimal.

## **Claims Against Leray Heyne**

There is included in our "collectible" balance of accounts receivable, two amounts totaling \$20,188 which Leray Heyne diverted to his personal account on December 14, 2000. He has verbally admitted taking these funds as a reduction in a note payable from EFI held by him and has been formally requested to return the funds to the Estate by way of a demand letter from Legal Counsel. This letter required payment to be received by 4:00 p.m. on Thursday, February 15, 2001. No response has been received to that letter and we are proceeding with an application to the Court for an Order to Show Cause why Mr. Heyne is not in contempt of the Order.

## **Public Sale of Personal Property**

After closing the facilities on Friday, December 22, 2000, we began soliciting and receiving inquiries from former competitors and distributors, and other interested parties regarding the possibility of a sale of the assets of EFI, both tangible and intangible. We made arrangements to show the facilities to five interested parties. At the same time, we had a representative from a major industrial auctioneer and liquidation company, who had preformed a complete appraisal of all equipment approximately 1½ years prior, give us an updated evaluation of the equipment. We felt that there was enough interest expressed to conduct a Public Sale of Personal Property pursuant to Code of Civil Procedure §568.5 and §701.510, et seq. We informed potential bidders that our minimum acceptable bid would be \$400,000. This figure was derived from the appraisers estimate that we could receive approximately \$275,000, after expenses, if we conducted an auction of the equipment; plus an additional amount of approximately \$125,000 for the intellectual property, for which we had already received a bid of \$75,000.

We, therefore, posted the appropriate notices and conducted a public sale on January 22, 2001 at 10:00 a.m. All five of the interested parties were present, however only two participated in the bidding. That sale resulted in a high bid of \$440,000. We received a Cashier's Check for 10% of the bid that morning and concluded the sale on Friday, January 26, 2001 when the balance due of \$396,000 was received and a properly executed Bill of Sale was delivered to the buyer.

## **Claims Against the Estate**

The \$495,565.27 judgment owed to the Plaintiff (together with interest on said judgment as provided by law) is fully perfected and in a senior position. We have also received evidence that a trade creditor, Joseph Soloman Sales, has a junior perfected security interest in the equipment and inventory of EFI. The balance owed on that claim exceeds the total remaining funds available for distribution, after satisfaction of the Judgment. There are about 100 other unsecured trade creditors with aggregate balances owing of approximately \$560,000.

We have also received correspondence from Counsel to Accord Human Resources, the lessor of all EFI employees, asserting a priority claim for "wages" paid by them, in the approximate amount of \$61,700.00.

## **Requests of the Court**

The Court is respectfully requested to:

1. Approve this Report and confirm the actions of the Receiver described therein.
2. Authorize payment of the Judgment amount to the Plaintiff, City National Bank (less amounts already received by right of offset of approximately \$24,000).
3. Approve payment of the expenses of the Receiver incurred through January 31, 2001, as detailed under Tab 1.

Respectfully submitted,

Robb Evans