

ROBB EVANS, RECEIVER – COMMENTS AND Q & A
AT HEATH INVESTOR MEETING OF MARCH 30, 2005

Opening Statement: The Receiver was appointed on May 4, 2004. By consolidating three databases kept by Heath and Schlarmann, my office has determined that 1,692 investors are owed about \$118 million. To further explain, investor victims turned over to Heath, Schlarmann, and their entities about \$192 million. After repaying about \$74 million to some investors (using money from new investors), \$118 was still owed when the Riverside County District attorney and the Securities and Exchange Commission filed their actions.

The Receiver has pursued recovery of loans and investments handed out to more than 25 companies, businesses, and individuals, which consumed most of the investor's money. However many of those businesses are now bankrupt or insolvent. For instance, Heath spent at least \$22 million of your money, plus another \$17 million from a construction lender, on The Club at Big Bear. Heath and Schlarmann directed about \$35 million to the Northwoods Resort and Conference Center, including \$11million to pay interest to earlier investors. There are five investments or loans, ranging from \$1.2 million to \$8.2 million and totaling \$20 million, that are now essentially worthless.

In my last report I said that I believed the minimum recovery for you would be about \$16 million. Except for the Quiznos investment, we expect little additional recovery from business loans and investments, including the five mentioned earlier. For instance, the Receiver was able to recover only \$725,000 from The Club project. However, the pending sale of the NorthWoods Resort now indicates the minimum recovery will reach \$17 million. But that is still only about 14% of what you are owed.

I have tried to create a claims process that is not complicated and hopefully will allow you to verify our proposed claim balance without difficulty. On March 28, 2005, my office mailed letters to 1,692 investors. Each letter stated a person's proposed claim balance, based on our review of the records turned over to us.

The U. S. District Court approved the following details of the claim process:

- All previous payments, whether described as interest or principal, will be a return of capital and will reduce the original principal investment.
- All fictitious interest added to the original principal investment will be reversed.
- The resulting Net Out-of-Pocket Loss has been calculated as the proposed claim balance.

If you do not agree with the proposed claim balance prepared by my office, you may send us information to support your calculation. You have 30 days from the date of the letter to contact my office in writing.

Administrative and General Questions

Can anyone tell us how we can recover damages after the low percentage of recovery dollars are received after June 30, 2005?

At this stage we do not know what percentage will be recovered from the assets beyond the 13% number discussed in our third report. But I believe that it will not be much larger.

There are other questions about separate litigation or a class action. These will be commented upon separately.

Would contacting Governor Schwarzenegger do any good?

I don't see what he could possibly do to help.

Is it true that Robb Evans is being paid by the investors and not by the county or state? If so, why? How much has Robb Evans been paid?

Yes, all costs of liquidation and recovery are paid by the Receivership estate. In other words, by the investors funds. There is no available alternative. The government -- state, county and federal -- is not in the business of financing the recovery of private losses such as this. They provide the vehicle for recoveries, but do not utilize taxpayer funds to recover private losses.

In the ten-month period from May 4th, 2004, when he was appointed, Evans' compensation has totaled \$34,045 through February 28, 2005.

How much will the Receiver be charging TOTAL for administration of this case?

It is impossible to estimate at this point. Expenses of the receivership estate include payment of property taxes, mortgage payments, and other maintenance of real property. The largest expense of the Receivership Estate is legal expenses.

We trusted Mr. Heath with our money as our advocate. Now you are in that position. We have no control over your fees. Has that been accounted for?

Yes, it has been taken into account. I work for the Court. You are very fortunate in that you have a very thorough judge who is very tough on my expenses. He looks at them very closely. The situation is different than it was with Mr. Heath. I am a fiduciary; I have a legal and moral responsibility. I have been a banker for 40 years and have been doing this kind of work for the last dozen years. We are not unsupervised. There is a test that we have to meet, which is not to spend a penny unless we expect to get more than a penny back from that effort.

Legal expenses alone are over \$250,000 so far; it is very expensive. We have no alternative, other than abandoning those issues, which require legal attention.

What happened to the \$35 million that was unaccounted for in October 2004?

That was a number publicized by the Press Enterprise reportedly based on a statement from the Riverside County District Attorney's Office. My office is still in the process of reconciling about \$20 million in disbursements from PCM to Investments Management, a Schlarmann entity. There are about 100 bank accounts with more than 5,000 monthly bank statements that span many years to account for the final destination of all the money.

Will all these questions and answers be online so those unable to attend will be updated with the answers?

Yes. They will be posted on the Receiver's website at www.heath-receiver.com.

One investor had a series of questions regarding several figures in our reports. The questions are:

On the consolidated Income/Expense from 7-1-93 to 4-29-04, what happened to PCM \$12,507,571.91?

As detailed in my first report, most of that money was paid out in the form of expenses such as sales commissions, payroll, and operating expenses.

Under expenses, what happened to O'Brien Enterprises Trust \$1,817,402.72? John W. Heath, \$1,426,476.65? Daniel W. Heath, \$730,033.02?

The payments to O'Brien began in May 1995, which averages about \$200 thousand a year.

The payments to John Heath began in February 1996, which averages about \$178 thousand a year.

While these amounts are not insignificant, our review did not disclose any sources of potential recovery. All their remaining assets are frozen by the Order obtained by the Securities and Exchange Commission.

Why have investors not been allowed in on the decision-making process with regard to the liquidation of assets, which so directly affect our futures and those of our families?

It is unfortunately not practical to have a number of people involved in the decision-making process. The acceptable course of action is for the Court to select one entity who makes decisions. There are certainly others who could make well-informed decisions, but this is the procedure, as it exists. We are open to investors' thoughts and opinions, and we try to listen, but we have to always be careful to be time-efficient and to not incur additional costs.

Distribution Related Questions

If we've already lost a significant amount of money on our investment, why are you planning on deducting interest and payments from our total return?

In order to put victims on an equitable basis, one with the other. Victims are only going to get a certain percentage of their net loss back. We have felt that establishing a uniform Net Out of Pocket Loss was the most equitable approach and the Court has agreed with us.

Our investments included both an account invested in "Secure Corporate Notes" and in "Northwood Mortgage Fund." Should there be any recovery of funds, will the amount distributed be allocated among both types of investments or will it be lump sum based on our total investment?

All of the funds were commingled. The Court ordered recovered funds be distributed based on your total net investment, regardless of any designation between any hypothetical type of investment.

Does the reimbursement of approximately 13 cents on the dollar take into account the pending sale of the Northwoods for \$10.3 million?

Yes, it does, although when we made that prediction we were not getting that good a figure for Northwoods. That transaction is still pending and I don't want to count our chickens before they hatch. But if it does close as we hope it will, or we get a similar price from a back up buyer, then that would slightly improve the figure to about 14%. We put that figure out there not as a prediction, but rather as a "worst case" estimate.

The Northwoods Resort was accepted as a fine addition to Big Bear residents. I believe the figures showed costs of over 35 millions to build. Why should the highest offer of \$10.2 million be considered a good offer with several even lower offers?

While it is true that over \$35 million did go through the Northwoods amounts:

\$19,000,000 in Purchase Price

\$11,000,000 back to Investors

\$ 5,000,000 losses

Two appraisals averaged \$4.6 million Opinions of Value ranged from \$7 to \$8 million. There were seven bidders who bid from \$9 million to \$10.1 million. The appraisals, Opinions of Value, and the actual offers for the market (after extensive marketing and promotion) demonstrate the price is a good offer.

Some of us are getting older. How long is this process realistically going to take?

Assuming the Northwoods escrow closes on schedule, hopefully we will be able to make an interim distribution within several months. I can't make any promises beyond that. There may be litigation with the Bankruptcy Trustee for Mrs. Heath, and we cannot estimate or control how long that will take. There is a dispute with Quiznos that we believe will result in a good recovery. If that happens, we hope to make another distribution later this year, but I cannot make any promises. It really depends on how the litigation proceeds.

Tax Related Questions

If the payment of interest will be treated as a return of capital, how do we handle the income tax we have paid on the “interest” we have received?

We cannot give tax advice, but I do know that many are filing amended returns going back three years. There are complex rules on this and you really need to consult a qualified advisor

I’ve received no 1099. How do I report the income I will get or have gotten?

You will get no 1099. Except for those investors who were overpaid, any funds you got were a return of capital, not income.

Will there come a point at which we will be able to deduct our losses on income taxes?

My understanding is that if they were not IRA funds you may eventually be able to do so. Again, we are not qualified nor authorized to give tax advice, so you should consult a tax professional. However, I do know that there are issues involving both timing and amount. I have also heard that you should talk to a tax professional about establishing a casualty or theft loss. In general, I understand, the IRS does not view favorably writing off the loss until that loss is defined. The loss cannot be defined while the recovery process is underway. However, my goal is to establish the Loss Amount later this year.

Questions Related to IRA Custodians

Will money from IRAs accounts be returned to First Trust or other custodians?

We will send the money wherever the instructions we have on hand dictate it should be sent. That could be either to the designated custodian if the account is already open or to you directly for redeposit into another IRA. If the IRA or other source account has been closed, it will be sent directly to you and you will need to deal with reinvestment or whatever other disposal you consider appropriate.

First Trust has advised us to remind their account holders to review the information sent by First Trust about current asset value and the effect of closing the self-directed account. (I haven't seen that information; I'm just delivering a reminder). It is my understanding that you can own your Heath account at a zero value by taking any Heath asset out of First Trust and then First Trust would not be involved when the receivership makes a distribution.

Why are the funds we had at First Trust or other IRA custodians not FDIC insured? Should we not be able to collect from the FDIC insurance?

The cash is insured, but the investments are not. FDIC insurance of the cash would only be relevant in the event of the failure of the FDIC insured financial institution. They do not insure accounts otherwise.

My IRA custodian is still charging fees against my account. Can you do something about that?

Unfortunately, I cannot. This is an issue you will have to deal with directly with your custodian.

Questions Related to the Defendants

Is the rumor that Denis O'Brien has off shore accounts true?

We cannot comment in any detail. We are always on the alert for tracing any and all funds, on shore, off shore or under mattresses. All we can say at this point is that we are looking at all possibilities, but do not expect to find any offshore pot of gold.

What happened to Larre Schlarmann?

He is in jail awaiting trial.

What about Larre Schlarmann's personal assets? What is being done to obtain those assets for the benefit of the investors?

All of Schlarmann's assets have been frozen and are being aggressively dealt with. Schlarmann's interests in Northwoods and Quiznos and his other interests are in the possession of the Receiver and are being dealt with.

Are the defendants paying their attorney out of our money?

They are not being paid out of the receivership estate.

If Heath and O'Brien pay damages, does this mean they will not do further jail time?

No. The damages are a civil matter. Jail time is a criminal matter. This is a better question for the criminal authorities to answer, but mine is that they are unlikely to be able to pay any damages, because we have taken all of their available funds for victim restitution. However, their available funds would not be enough to pay the \$118 million owed to you.

What if Heath, O'Brien, et al. are found innocent?

The defendants have been charged both civilly and criminally. In a civil action, there is no presumption of guilt or innocence. Heath and O'Brien have already consented to judgments being entered against them in the civil case.

Will Heath's wife get out of contributing to the investors' recovery by filing bankruptcy?

Mrs. Heath's bankruptcy has certainly complicated our recovery. The disposition of the funds from the Bankruptcy Trustee's sale of three properties will ultimately be determined by the U.S. District Court. I can tell you I want those properties in the receivership. The Bankruptcy Trustee has a different view. Ultimately, the Judge will make a decision with regard to the assets currently in Mrs. Heath's bankruptcy action.

Questions Related to Other Litigation

I understand a group of people are contemplating or have hired an attorney in San Diego to start a separate case against the Heath transgressors to seek compensation. Is this true and can you comment about this litigation?

Yes, the San Diego law firm of Aguirre and Myers has filed litigation on behalf of several victims against Heath and the other defendants. We at the Receivership are aware of this action but are not presently involved. The suit is against Heath and others for whom we are Receiver and the question has arisen if we will have to defend this law suit to prevent those few investors from getting Heath funds that the Receivership is holding or will get for the benefit of all victims. The answer to that question is, “no,” at least not so far. I am not aware of their litigation strategy, but, as I understand it, the suit is against the defendants who have already turned over all of their known assets to us. If there is an attorney or representative of that group, I would invite them to answer the question directly, now.

Can you recommend a class action attorney who might help us?

We cannot make recommendations regarding possible counsel. However, we will support and cooperate with other litigation that we believe will bring in additional funds for distribution to victims so long as we believe the litigation is meritorious and we can support it without expense or risk to the Receivership Estate.

What about litigation against the IRA custodians? Is there a class action? Why haven't you sued the IRA custodians on behalf of all the victims?

My understanding is that there is a law firm that is preparing a possible class action against one or more financial institutions. They have been in touch with us and we will do whatever we believe can properly make more money available for distribution to victims.

Regarding why we have not filed litigation, first, not all the victims are IRA holders and I have to think twice about any litigation expense that might not benefit all the victims.

Secondly, this would be no slam-dunk litigation. It could be very expensive and there is no certainty of success. In essence, each IRA custodian accepted a self directed IRA, meaning the IRA custodian is to follow the directions of the account holder and not make investment decisions. This does not mean they are necessarily blameless. But when I evaluated the possibility, I determined that I could not jeopardize the estate by launching such potentially expensive litigation without a higher likelihood of success than presented itself during our evaluation of the matter. However, if a class action, with the attorneys working on contingency, and at no expense to the estate, then that is a very good alternative. If it is successful, then victims will benefit. If not, then there is no loss to the estate.

Has any action been taken with regard to Senior Care Advocates?

My understanding is that the law enforcement agencies are looking into this organization and are actively pursuing an investigation into it.

Are you going to go after the early investors? The ones who received more money back than they put in?

There are 227 individuals that received about \$4.3 million more that they invested with Heath. The statistics regarding the overpayments to those investors are as follows:

Range	Total Overpayment for Range	Count
\$1 to \$50,000	\$2,753,583	206
\$50,001 and Over	\$1,626,587	21
<i>Total:</i>	<i>\$4,380,170</i>	<i>227</i>

We have not made a decision yet with regard to the overpayments. We have to analyze the cost in relation to the benefit expected – we will not spend money where no recovery is possible. Additionally, we will not put anyone in the street. If we do decide to pursue certain of the overpayments, it will require careful analysis and the Court’s consent.