

ROBB EVANS & ASSOCIATES LLC

Temporary Receiver of

Assail, Inc.

Infinium, Inc.

Market-Rep.com, Inc.

Summit Communications International, Inc. dba

Advantage Capital

Capital First Benefits, Inc.

Premier One Benefits, Inc.

REPORT OF RECEIVER'S ACTIVITIES JANUARY 15, 2003 THROUGH JANUARY 31, 2003

This report covers the activities of the Temporary Receiver since the inception of the Temporary Receivership. This is the first Report to the Court on the progress of the Temporary 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.

Custody, Control and Possession

On January 15, 2003 the Temporary Receiver's staff entered the Assail, Inc. (Assail) premises in St. George, Utah and the Infinium, Inc. (Infinium) premises in Cedar City, Utah following the entry of the Secret Service and other law enforcement agencies that executed a criminal search and seizure warrant. The Temporary Receiver was made aware that the Secret Service would be seizing certain computers and corporate documents considered relevant to the search warrant. The Temporary Receiver staff was allowed to view critical accounting data from computers at both locations after execution of the warrant. The Temporary Receiver was also allowed to view documents in multiple file cabinets at both locations prior to the removal of some of the documents contained in those file cabinets.

During the course of the day on January 15th, the Temporary Receiver interviewed selected Assail employees in an attempt to gain an understanding of business operations. Some employees were cooperative and others were evasive. Mr. Kyle Kimoto was not present and therefore, the Temporary Receiver was not able to interview him. Selected Infinium employees, including Mr. Brian Schofield, Infinium's President, were interviewed. Mr. Schofield and his employees were cooperative and forthcoming in providing information about the business.

The door locks controlling access to the facilities were changed and the Temporary Receiver took control of the local mail through the U.S. Postal Service.

Financial Information

From information supplied by the Plaintiff and from information discovered at the companies' facilities, a number of current and former bank accounts of the defendants and related entities were identified. Under Tab 1 is a listing of the accounts and account balances identified to date that total \$1,493,683.62. Not included in this total are account balances of the individual defendants totaling \$1,753,657.18.

Assail, Inc.

According to records located on site, Assail was incorporated on February 4, 1999. The fiscal year end for Assail is March 31. A review of records and discussions with individuals indicated that certain entities exist that appear to be affiliated with Assail. Those affiliated entities are Zentel Enterprises, Inc., Par 3, Inc., Valdine Management Company, and Green Investment Planning Corp.

Accounting records for Assail and some of its affiliates from Assail's computer system cover from February 1999 to the present. Assail's income statement reflects:

- Total revenues of \$2,771,042.75 and net loss of \$58,641.92 for the period of February 1999 through March 31, 2000.
- Total revenues of \$12,481,755.98 and net income of \$269,208.90 for the twelve months ended March 31, 2001.
- Total revenues of \$27,261,228.18 and net income of \$426,803.36 for the twelve months ended March 31, 2002.
- Total revenues of \$29,096,489.18 and net income of \$2,327,723.97 for the period of April 1, 2002 through January 15, 2003 (the entry date).

Therefore, accounting records for the entire period reflect total revenues of \$71,610,516.09 and net income of \$3,082,378.15.

As of January 15, 2003, Assail's balance sheet reflects total assets of \$3,563,949.05, total liabilities of \$557,997.55, and a net equity of \$3,005,951.50. Assets are centered in cash and fixed assets. Liabilities primarily include leases payable totaling \$58,522.45, note payable to State Bank of Southern Utah of \$226,264.96, note payable to KS KEOIF of \$150,000.00, and GMAC vehicle payable of \$21,493.44.

Zentel Enterprises, Inc. was incorporated in April 2001. Zentel's income statement reflects:

- Total revenue of \$9,566,774.48 and net income of \$658,723.26 for the twelve months ended March 31, 2002.
- Total revenue of \$2,460,523.72 and net loss of \$560,129.76 for the period of April 1, 2002 through January 15, 2003.

As of January 15, 2003, Zentel's balance sheet reflects total assets of \$314,376.50, total liabilities of \$215,683.00, and a net equity of \$98,693.50. Assets are centered in cash and fixed assets. Liabilities primarily include \$261,203.15 due to Assail, offset by an overpaid balance of \$45,482.93 due from American Express.

Infinium, Inc.

According to records located on site, Infinium was incorporated October 11, 2000. The fiscal year end is December 31. The Temporary Receiver learned from a review of records and discussions with individuals that certain entities exist that appear to be affiliated with Infinium. Those entities are: Allied Teleservices, Inc., CubSox Holdings, LLC, Greentree Holdings, LLC, Infinium Air, Inc., Knuckleball, Inc., Market-Rep.com, Inc., Televoice, Inc., and Vanity Works, Inc.

Five accounting files, under the names of Infinium, Allied Teleservices, Inc., Greentree Holdings, LLC, Infinium Air, Inc., and Vanity Works, Inc., were located. Infinium was in the process of switching from the QuickBooks accounting software to the Peachtree accounting software during the last quarter of 2002. Up to the entry date, certain accounting transactions between October 1, 2002 and January 15, 2003 were recorded on QuickBooks and others on Peachtree. The Temporary Receiver found only one company file, under Market-Rep.com, Inc's name, on Peachtree. It appeared that most of the transactions recorded on Peachtree were related to Infinium's business transactions.

Based on the review of the QuickBooks and Peachtree files, the Temporary Receiver believes that combining the Infinium QuickBooks transactions and Market-Rep.com's Peachtree transactions would provide a more complete picture of the operating status under Infinium for 2002 and 2003.

- The income statement reflects total revenues of \$2,423,834.14 and net income of \$752,880.51 for the three months ended December 31, 2000.
- The income statement reflects total revenues of \$10,399,587.03 and net income of \$279,424.21 for the twelve months ended December 31, 2001.
- The combined income statement reflects total revenues of \$9,371,071.18 and net loss of \$350,616.15 for the twelve months ended December 31, 2002.

Therefore, accounting records for the entire period reflect total revenues of \$22,194,492.35 and net income of \$681,688.57.

As of January 15, 2003, the combined balance sheet for Infinium reflects total assets of \$345,892.30, total liabilities of \$274,412.84, and net equity of \$71,479.46. Assets are centered in inter-company receivables and equipment. Liabilities primarily include accounts payable of \$81,514.37, American Express payables of \$40,180.51, note payable to Mesquite State Bank of \$105,834.90, and note payable to Brian Schofield's father of \$30,000.00.

Allied Teleservices, Inc. was incorporated on December 1, 2001. The accounting records obtained by the Temporary Receiver cover the period from December 1, 2001 to November 7, 2002. The income statement reflects:

- Total revenues of \$40,047.77 and net loss of \$29,160.89 for the month ended December 31, 2001.
- Total revenue of \$409,226.84 and net loss of \$540,728.25 for the period from January 1, 2002 through November 7, 2002.

The accounting records for Greentree Holdings, LLC on QuickBooks ranged from May 1, 2002 through September 30, 2002. The income statement reflects total revenues of \$6,237.00 and net loss of \$10,450.33 for this period.

The accounting records for Infinium Air, Inc. on QuickBooks ranged from August 20, 2002 through January 8, 2003. The income statement reflects total revenues of \$6,931.87 and net loss of \$10,052.42 for this period.

The accounting records for Vanity Works, Inc. on QuickBooks ranged from August 30, 2002 through January 6, 2003. The income statement reflects no revenues and net loss of \$6,678.72 for this period.

Behind Tab 2 are the current Balance Sheets for each of the entities.

Business and Telemarketing Operations

The primary corporate defendants, Assail and Infinium are separate corporate entities operating in separate locations. The primary individual defendants, Kyle Kimoto and Brian Schofield, were partners in Assail from its incorporation in February 1999 through September 2000. Mr. Kimoto and Mr. Schofield jointly ran the business operations of Assail in Cedar City, Utah until September 2000. Mr. Kimoto then moved the Assail business operations to St. George, Utah. In approximately October 2000, Mr. Schofield created Infinium and continued telemarketing operations in Cedar City, Utah.

A review of the physical site and study of the accounting records show that the greatest volume of activities occurred through the Assail, Inc. location. For the 47 months ended January 15, 2003, Assail recorded sales of \$72 million, compared to sales of \$22 million recorded by Infinium for the 27 months ended December 31, 2002.

Following is a description of the telemarketing and sales activity at each location.

Assail, Inc.: St. George, Utah

The headquarters location for Assail includes two telemarketing sales rooms, and another built-out area labeled Valdine Management that appeared to be set up for future telemarketing sale activity. While reviewing documents and other information at the site, the Temporary Receiver's staff located mailing materials for Advantage Capital Benefits, Capital First, and Premier 1 and other documents related to the sale of these products. These three products were described in the Complaint filed by the Federal Trade Commission. Several employees stated that Assail no longer sold these products.

As more fully described in the following paragraphs, Assail has revised its marketing methods, changed the name and some features of many of its promotions, and introduced some new consumer and business products. However, an examination of current offerings reveals many of the same elements of prior offerings, along with an Upsale of several new products during the verification process:

- Many of the products and services, either promoted initially or as an Upsale, are identical to prior offerings in Advantage Capital Benefits, Capital First, and Premier 1. Promises of discounts and savings are usually realized through coupons, special catalogues, or from special memberships;
- The presentation of one product leads to several other offers for products and services. These offers require additional fees, or are offered as free trials for a few days, which then convert to a continuing monthly fee;
- Comparable services or products are offered in the market for a lower price;
- Promoted credit facilities, for consumers or businesses, are not associated with national credit card issuers or national business credit lenders.

Assail is currently selling its, **First National Business Network** product in its two telemarketing sales rooms. However, the company now appears to conduct the majority of its sales of current products through a network of outside telemarketing organizations. Data gathered from documents in the marketing area, and a review of hand-prepared tally boards in the same location, indicate that about 64 outside telemarketing organizations have a relationship with Assail. Currently, 38 of those organizations are actively selling three products furnished through Assail. One of the organizations sells three products, and five others sell two products. All but five or six of the telemarketing organizations appear to be located in India.

From a review of records, and discussions with employees, the Receiver's staff learned that Assail sells consumer leads to the telemarketing organizations. Recent records that were confirmed by conversations with employees indicate that Assail sells and forwards telemarketing leads, ranging from 10,000 to 75,000 per week, to each outside sales organization. According to an employee that operated the Leads Scrubbing software, the leads provide contact information for persons in the United States.

Sales by Outside Telemarketing Organizations

According to statements from the employees, and from available documents and records, 38 outside telemarketing organizations, including defendant Infinium, are currently selling these three products:

- **Mobile Communications Wireless** is currently promoted by 34 outside telemarketing organizations.
- **American Values** is currently promoted by 12 outside telemarketing organizations, five of whom also promote the Mobile Communications product.
- **Healthy Advantage** is currently promoted by two outside telemarketing organizations. Sale of this product began just a few days before the Receiver took control, and previously was test marketed by Assail employees.

Draft scripts and documents reviewed by the Receiver's staff, indicate that the company was about ready to introduce other consumer products for test marketing. Scripts indicate that a tooth whitening product and a Viagra substitute were to be test marketed in the near future. The employees stated that test marketing was always completed on site at the Assail location.

Following is a brief description of the three products currently being sold through the 38 outside telemarketing organizations. The Temporary Receiver is in the process of evaluating the nature and legitimacy of the products offered.

Mobile Communications Wireless is offered to consumers as a cellular phone plan with 600 minutes, free nationwide long distance, and free voicemail. The cost is \$39.99 per month with a phone furnished for \$9.95 fee. The identity of the company providing the telephone services is not provided. After providing a credit card number for the \$9.95 fee for the telephone, and as part of the verification process, the customer is offered five additional products, with a free trial ranging from seven to 30 days, for an additional total monthly charge of \$115.75 plus shipping and handling charges of \$9.90. The additional products are:

- Utalk Unlimited, a long distance service for \$39.95 per month with a seven-day free trial, is offered before the verification process. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send out your free trial under the terms I have described, ok"? After the verification process, four additional products are offered to the consumer.
- The next product, offered after the verification questions, is actually two services offered together: Auto Guard Plus and the Home Value Club. Auto Guard Plus is a 24-hour roadside assistance program with discounts for auto service. Home Value Club is a shopping service and 24-hour emergency home assistance. Both are offered with a thirty-day free trial. Monthly fees of \$12.95 per month for each product begin after the thirty-day trial. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send out your memberships under the terms I have described, ok"?
- The next product offered is Healthy Advantage, a program offering medical products and services not covered by insurance, 50 percent savings on dental care and eye care, and 30 to 50 percent discounts on prescriptions. It is not clear if there are reduced rates for doctor visits. After a seven-day free trial period, there is an enrollment fee of \$49.95, and a monthly membership fee of \$29.95. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send your membership materials out to you under the terms I have described, ok"?
- Finally, the consumer is offered membership in the American Homeowners Association. The membership is offered with a free credit report and credit coaching service, and offers 24-hour emergency home repair dispatch, free legal consultations, and savings on groceries. After a seven-day free trial, there is a monthly fee of \$19.95 plus a \$4.95 shipping and handling fee. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send your membership materials out to you under the terms I have described, ok"?

To summarize, after the initial call to the consumer offering **Mobile Communications Wireless** as a cellular phone service, the consumer is offered an additional five products promoted as free trial offers, but which soon convert into monthly charges totaling \$115.75, plus shipping and handling fees of \$9.90.

American Values is offered to consumers as a program that provides \$100 in gasoline rebates, 20 percent discounts on other products, and \$500 of grocery coupons. The program is offered as a 15-day free trial (after \$4.95 shipping and handling), and then requires a \$20 processing fee and a monthly fee of \$19.95. After providing a credit card number for the \$4.95 shipping and handling fee, and as part of the verification process, the customer is offered four additional products, with a free trial ranging from seven to 30 days, for an additional total monthly charge of \$115.80, plus shipping and handling charges of \$4.95. The additional products are:

- The first product, offered after the verification questions, is actually two services offered together: Auto Guard Plus and the Home Value Club. Auto Guard Plus is a 24-hour roadside assistance program with discounts for auto service. Home Value Club is a shopping service and 24-hour emergency home assistance. Both are offered with a thirty-day free trial. Monthly fees of \$12.95 per month for each product begin after the thirty-day trial. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send out your memberships under the terms I have described, ok"?
- The next product offered is WellNet America, a membership offering \$100 in rebate vouchers for prescriptions, along with discounts for doctor visits, vitamins, and medical supplies. After a seven-day free trial period, there is a monthly membership fee of \$49.95. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send your membership materials out to you under the terms I have described, ok"?
- Finally, the consumer is offered unlimited long distance service, after a seven-day free trial, for \$39.95 per month.

To summarize, after the initial call to the consumer offering **American Values** as a program providing gasoline rebates, other discounts, and grocery coupons, the consumer is offered an additional four products promoted as free trial offers, but which soon convert into monthly charges totaling \$115.80 after shipping and handling fees of \$4.95.

Healthy Advantage is offered to consumers as a program offering medical products and services not covered by insurance, 50 percent savings on dental care and eye care, and 30 to 50 percent discounts on prescriptions. It is not clear if there are reduced rates for doctors' visits. The program is offered, in connection with a free health reference library or digital thermometer (after a shipping and handling charge of \$4.95) as a seven-day free trial. After a seven-day free trial period, there is an enrollment fee of \$20.00, and a monthly membership fee of \$29.95. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission and under the terms explained we will go ahead and send out your package, ok"?

After providing a credit card number for the \$4.95 shipping and handling fee, and as part of the verification process, the customer is offered four additional products, with a free trial ranging from seven to 30 days, for an additional total monthly charge of \$75.80 after shipping and handling charges of \$4.95. The additional products are:

- The first product is offered to consumers as \$500 in discount travel coupons, with discounts at World Resorts and Hotels through 4MYTRAVEL.COM. The program is offered as a 14-day free trial, and then requires a monthly fee of \$29.95. The purchase is considered accepted when the customer answers "yes" to the statement: "so, with your approval we'll send out your free 14-day trial membership to 4MYTRAVEL.com and your \$500 in free coupons, OK?"
- The next product offered, is actually two services offered together: Auto Guard Plus and the Home Value Club. Auto Guard Plus is a 24-hour roadside assistance program with discounts for auto service. Home Value Club is a shopping service and 24-hour emergency home assistance. Both are offered with a thirty-day free trial. Monthly fees of \$12.95 per month for each product begin after the thirty-day trial. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send out your memberships under the terms I have described, ok"?
- Finally, the consumer is offered membership in the American Homeowners Association. The membership is offered with a free credit report and credit coaching service, and offers 24-hour emergency home repair dispatch free legal consultations and savings and groceries. After a seven-day free trial, there is a monthly fee of \$19.95 plus a \$4.95 shipping and handling fee. The purchase is considered accepted when the customer answers "yes" to the statement: "so with your permission I'll send your membership materials out to you under the terms I have described, ok"?

To summarize, after the initial call to the consumer offering the Healthy Advantage program for medical products and services, the consumer is offered an additional four products promoted as free trial offers, but which soon convert into monthly charges totaling \$75.80 after shipping, plus handling fees of \$4.95.

Upsales and Tracking

The presentation of additional products during the verification process, referred to as Upsales, is shown to be an important element of the Assail sale process. Upsales are commitments for continuing monthly fees from the purchasers, at times for amounts far greater than the first product presented. Upsales appear to have replaced the one-time fees (of approximately \$125) previously charged by Advantage Capital Benefits, Capital First, and Premier 1 to obtain additional products.

Documents located at the site included an American Values Upsale Report prepared 1/15/03 for sales made 1/13/03. The report stated that the percent of Upsales for each of the three sales attempts related to the American Values initial sale ranged from 22% to 99%. Of the nine outside telemarketing organizations reporting that day, five sold the three Upsales to at least 60% of the purchasers. Only two reported any individual Upsales below 50% of the purchasers.

Sales by Assail Employees at its Telemarketing Sales Rooms

Following is a brief description of the **First National Business Network** product that is currently sold in the two telemarketing sales rooms at the Assail location in St. George Utah.

- The telephone presentation begins by stating "your company recently qualified for a \$10,000 Dunn and Bradstreet commercial credit line." Later in the presentation the sales agent reveals the credit line can be used only to purchase products through a specific online website. During the verification process, the prospect is told that using the credit line for online purchases requires a 50% deposit for all purchases.
- A promoted benefit of the First National Business Network is reporting the prospect's credit rating to Dunn and Bradstreet. The cost is \$249.95 and a monthly processing fee of \$19.95. The customer is told that the monthly fee can be cancelled at any time. However, that also cancels the credit line and the credit reporting service to Dunn and Bradstreet.
- From a review of records located at the site, it appears the First National Business Network program was purchased or obtained from Bay Area Business Council, Inc. (Bay Area). Bay Area was the subject of a complaint filed by the Federal Trade Commission and is subject to a Preliminary Injunction.

Infinium, Inc.: Cedar City Utah

The headquarters location for Infinium was designed with large open spaces subdivided with modular furniture consisting of numerous cubicles with individual stations for use by telemarketing sales representatives.

The Temporary Receiver conducted interviews and collected questionnaires from 156 employees, on two separate shifts. Over 90% of the employees are directly involved in the telemarketing operations and consist of sales representatives, verification personnel, monitors, supervisors and team leaders. The remaining staff consisted of conventional support personnel such as accounting, data entry, information technology, and human resource staff.

The Director of Operations for Infinium described their company as a contractor providing telemarketing services for various clients. Even though the Director of Operations claimed that Infinium had several clients, he did not identify any client other than Assail and the Temporary Receiver was unable to confirm the existence of any clients other than Assail. Records collected at the Assail offices in St. George confirm that Infinium is one of the telemarketing companies selling products offered by Assail.

While reviewing documents and conducting interviews at Infinium, the Temporary Receiver's staff determined that there were four products being offered at this location. Three of the products sold at Infinium, **American Values, Healthy Advantage, and Mobile Communications**, have virtually identical sales scripts to those collected at the Assail location. With a few minor differences, the Upsale products offered during the verification process for these three products are the same as at Assail. These three products have already been described in detail earlier in this report.

Credit Securities Resources, the fourth product offered at Infinium, is a pay-as-you-go Master Card with a 0% interest rate. A "pay-as-you-go" credit card is nothing more than a cash transaction, in that, the customer is required to prepay for the purchase before the goods are delivered. Customers are asked to pay a one-time processing fee of \$199.95, plus shipping and handling costs, which are billed directly to the customer's checking account. Customers are promised the opportunity for a free cellular telephone from AT&T, a professional credit repair book and software. The sales representative collects the customer's bank account information and the customer is then transferred to the verification department where the script is designed to Upsale additional products. The verification script for Credit Securities Resources confirms the customer's banking information and understanding of the product (i.e., includes two books and CD-ROMs, free health benefits, free debt analysis, passwords for private web site and a "Master Card with no prepaid spending limit directly from a financial institution"). The Upsale product is for "Five Free Days of Unlimited Long Distance Talk Time as part of a free trial subscription to Future Trend Communications." After the five-day trial period, the customer's bank account is charged \$19.99 as a setup fee and \$39.95 each month for the telephone service.

The Temporary Receiver's staff reviewed a report of Infinium's sales containing weekly summaries for a six-week period commencing December 1, 2002 and ending January 11, 2003. During this six-week period, Infinium made the following sales: 1,971 American Values with 3,300 Upsales; 3,289 Credit Securities Resources with 3,259 Upsales; and 4,692 Mobile Communications with 8,302 Upsales. The Director of Operations stated that Infinium receives commissions ranging from \$30.00 to \$120.00 for each sale.

Each morning, Infinium transmits all sales consumer data, including each customer's banking information, to Assail, Inc.

As noted above, the Temporary Receiver is in the process of evaluating the nature and legitimacy of the products offered.

Specific Financial Transactions

The Peachtree accounting system and the QuickBooks accounting system data that has been reviewed so far has revealed a substantial number of financial transactions with affiliated companies and with the individual defendant, Kyle Kimoto. The Temporary Receiver will complete further reviews of these transactions as more electronic and hard copy data become available.

Payments to or made on behalf of Kyle and his wife, Julie Kimoto

Due From Shareholders

There is one account and one sub-account carried in the Assail general ledger classified as Due From Shareholder (1250 and 400.1250). Transactions posted to these accounts originate primarily from charges made by Kyle and Julie Kimoto to the Company's American Express card and apparently from some payments made directly to vendors. The 400.1250 account has steadily increased from its initial posting date of January 9, 2002, and reached its present balance after periodic payments posted as made by Kyle Kimoto, and an unexplained credit of \$42,708.00. This credit is further described in the following paragraph. The Due From Shareholder account 400.1250 has a balance due of \$392,226.81 as of January 15, 2003.

The Due From Shareholder sub-account, 1250, has a higher dollar level of activity and also includes unexplained credit postings to reduce its balance. From its beginning balance of \$42,894.00 on April 1, 2001, increases to this account have included the following:

| | | |
|--------------|---------------------|-----------|
| July 2001 | Desert BMW | \$64,515 |
| July 2001 | Boats of Nevada | \$37,000 |
| August 2001 | Real Estate Trust | \$50,000 |
| October 2001 | Southern Utah Title | \$320,000 |

In February 2002, the charge of \$37,002.00 to Boats of Nevada was reversed and replaced with an increase to the Company's Fixed Asset Account.

At the fiscal year end, March 31, 2002, a journal entry was recorded to reclassify \$652,949.00 carried in the sub-account 1250 and \$42,708.00 carried in the account 400.1250. The entry completely cleared the balance due from Kyle Kimoto in account 1250. The offset for both credits was \$695,657.00 charged to the expense account Professional Fees-Other. According to the records reviewed to date, there was no mention in the journal entry that the professional fees were paid to Kyle Kimoto. Form 1099 records for Assail are not yet available to the Temporary Receiver. Behind Tab 3 is a record of all transactions for account 1250 and account 400.1250.

Par 3, Inc.

The staff of the Temporary Receiver located an agreement dated December 28, 2000 between Assail, Inc. and Par 3, Inc. (Par 3). The agreement provided that Par 3 would provide consulting services related to the management and organization of the company, its financial policies, and terms and conditions of employment. The contract was changed to include developing and testing of certain consumer products. The contract provided for payment of \$400,000.00. Later it was changed again to provide that Par 3 would receive property in lieu of cash payments. The Temporary Receiver did not locate any contract between Par 3 and the Assail affiliate, Zentel Enterprises, Inc.

Payments to Par 3, from Assail and Zentel for the period February 1999 to January 15, 2003 totaled \$ 1,542,424.00. Of this amount, \$125,000.00 was paid by Zentel. Incomplete Form 1099 information for Par 3, Inc. indicates that Par 3, Inc. paid more than \$140,000.00 to contractors. From the incomplete information located to date, the Temporary Receiver has identified some of the contractors as providing services and materials to Kyle and Julie Kimoto's residence.

Assail, Inc. purchased land (General Ledger account 1780 - Land) totaling \$307,458.00, with the last entry posted November 22, 2000. On March 31, 2001, a journal entry reversed the land purchase and offset it with an expense entry to Consulting Fees for Par 3, Inc.

The Personal Concierge Service

The Personal Concierge Service issued an invoice to Kyle Kimoto at his home address to provide an 18 foot by 20 foot Gazebo, and an additional 21 foot by 24 foot Gazebo. The total price in the invoice was \$62,000.00. A review of the Assail general ledger reveals payments to Personal Concierge Service were charged to the general ledger account Professional Fees-Consulting. The payments totaled \$73,938.50.

The Temporary Receiver is continuing to review accounts of the general ledger and the cash disbursement record to determine if other similar payments exist and to further clarify some of the payments discussed earlier. The Temporary Receiver intends to review canceled checks of the receivership defendants, and the canceled checks of others as they become available.

Recommendation

The Court is requested to approve this report and ratify the Temporary Receiver's actions described herein.

Respectfully submitted,

Robb Evans & Associates LLC
Temporary Receiver