

**ROBB EVANS**  
**Receiver of TLC America Inc., et al.**

**October 25, 2011**

This report covers the activities of the Receiver<sup>1</sup> since the last status report filed April 29, 2010. This is the final report to the Court and requests authority to make a final distribution and close 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 status of the receivership.

### **Brief Summary**

The TLC America estate has proven to be an exceptionally interesting case with complex and unique challenges. At the time of appointment, the Receiver was, along with other duties, charged with the responsibility for 522 real estate properties across the country, 45 race horses and over 200 racing greyhounds. The real property included vacant land, single family homes, multi-family residences, apartment complexes, condominium conversion projects, warehouses and an incomplete residential development.

While many of the challenges of the receivership were unusual, two in particular stand out and, although reported in great detail in previous reports, remain as high points in this long running and complex matter such that they deserve mention in this closing report.

Early in the receivership the Court authorized the Receiver to borrow funds so that emergency advances could be made to qualified distressed investors. Hundreds of elderly and incapacitated victims were dependent on regular payments which had previously been made by diverting investments from new investors, a classic Ponzi scheme. A number were faced with eviction from care facilities and their homes. Because there were no liquid assets in the Receivership, this action by the Court prevented significant hardship to many.

The Receiver would like to express gratitude to City National Bank for providing the financing essential to the success of this project. Their flexibility, speed and confidence provided a meaningful service to the community for which it is to be commended.

Another very challenging project, discussed in detail over many reports to the Court was the Marina Coves residential development in Arizona. TLC America had already invested approximately \$4.4 million dollars when the Ponzi scheme was brought to a halt. The estimated liquidation value was expected to be less than \$2.0 million which would have resulted in a loss of \$2.4 million or more. Under the direction of the Court, the Receiver worked on the Marina Coves project for five years to secure all of the necessary

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<sup>1</sup> Reference to the Receiver in this report means the Receiver, the Receiver's Deputies, his staff, and his counsel and Robb Evans & Associates LLC.

entitlements, acquired at an auction sale a critical missing property component, recorded a plat map for the first phase and sold the 99 lots that made up Phase I. The Receiver oversaw the construction of a boat ramp into the Colorado River and the construction of a 36 acre lake. With the Court's approval, the Receiver sold the remaining bulk portion of the property in December 2005. Proceeds from the sale of Phase I and the bulk portion of the property resulted in total income to the estate in excess of \$18 million. The victims of this Ponzi scheme are fortunate that the timing of the receivership was such that the then real estate market made this approach feasible. It would not have been possible today.

With this report, the Receiver is seeking the authority to make a final distribution to investors. To date, approximately 60.2% of approved claims has been distributed to investors. When the distribution for which authority is now requested is completed, victims will have received 60.7% of their approved claims.

### **Sale of 7843 Marquette Street (“Marquette Property”)**

This property has been the subject of an inordinate amount of litigation and has been the primary cause for the delay in the Receiver's ability to complete his administrative duties, make a final distribution, file a final report and terminate the receivership. The Receiver entered into a contract to sell the Marquette Property on November 26, 2003, but was unable to provide clear title due to an improperly asserted lien in favor of Long Beach Mortgage Company (“Long Beach”). Litigation to remove the lien was commenced shortly thereafter. On January 22, 2007, Final Judgment was entered in favor of the Receiver and against Long Beach in the District Court of Dallas County. Long Beach Appealed the Final Judgment to the Court of Appeals, Fifth District of Texas. On March 6, 2009, the Texas Court of Appeals affirmed the Final Judgment. On January 15, 2010, the Supreme Court of Texas denied the motion of Long Beach for a rehearing. Long Beach then appealed to the United States Supreme Court. Finally, on June 21, 2010, the Supreme Court of the United States entered its order denying the Long Beach petition for a writ of certiorari.

The Receiver researched several marketing options including the possibility of selling the property at auction. After obtaining multiple opinions of value the Receiver determined that the best way to liquidate the property was to negotiate a purchase agreement with the party that had been renting the property. On December 7, 2010, the Receiver filed a Motion for Order Approving Sale of Real Property and on January 11, 2011 the Court entered an Order authorizing the Receiver to sell the Marquette Property.

The sale of the Marquette Property closed escrow on January 28, 2011. After payment of the normal and customary closing costs, the net proceeds to the estate were \$568,738.21.

## **Other Administrative Matter to Close the Estate**

For months, the Receiver has attempted to resolve a number of administrative issues that, in his opinion, must be resolved before the estate could be closed and the receivership terminated.

Two of the administrative problems needing attention involved the Marina Coves property. In previous reports, the Receiver reported in detail about the ongoing problems with clouds on title as a result of Mohave County assigning two tax assessor numbers on numerous parcels of land. Mohave County has continued to send the Receiver tax delinquent notices on property that had been sold by the estate. Some of the tax records showed Robb Evans as owning taxes individually rather than in his capacity as Receiver. On several occasions, the Receiver sent letters to the Mohave County Tax Assessor and Mohave County Treasurer notifying them of their errors and asking to have the issue resolved, but County officials continued to send tax notices.

The Receiver contacted an engineer to double check the property associated with each of the tax assessor numbers the county claimed were owed by Robb Evans or TLC America. The Receiver discovered that all but two of the tax assessor numbers were for property that had been sold by the Receiver in the bulk sale which closed in December 2005. One of the remaining parcels was a small sliver of land which was landlocked and immediately adjacent to property owned by a charitable corporation, Hearts For Romania. Prior to the appointment of the Receiver, the previous owner of the property had donated three acres of land to Hearts For Romania. This small sliver of land was to have been included in that transfer. The property has no form of access and is of nominal, if any, value. In order to resolve to terminate ongoing tax liability and divest the estate of this property, the Receiver executed a quit claim deed in favor of the Hearts For Romania charity. The second parcel of land that was still titled to TLC America was a small section of common area along Riverfront Parkway that was to be transferred to Mohave County as a roadway. During the time the Receiver was obtaining the entitlements for Marina Coves, the Receiver deeded all of the common areas identified in the recorded final plat to Mohave County. The engineer that prepared the legal description for the transfer failed to include this small parcel. The Receiver prepared and executed a quit claim deed for this common area in favor of Mohave County.

The second problem involving Marina Coves was a demand by Mohave County Public Works Department that the Receiver complete some minor improvements. The required improvements included the application of slurry seal on the pavement, reflectors on each concrete island at the entrance of each street and seal cracks along Riverfront Parkway. During the time the Receiver was overseeing the development of the project, Mohave County required the Receiver to post a cash assurance bond with California Bank & Trust (Assurance Account #XXX-XXX7889) to assure completion of ongoing construction. Prior to the time the remaining portion of the property was sold in December 2005, the

Receiver's engineer concluded that all of the construction covered by the cash bond had been completed. Any incidental road work was to be completed by the new owner during their construction work. The entity that purchase the bulk portion of Marina Coves defaulted on its loans and the lender foreclosed on the property. As a result, the remaining portion of the project was never completed and the county looked to the Receiver to finish the remaining items. The Receiver contracted with McCormick Construction to complete the minor items. Scheduling problems with their equipment resulted in a delay of almost three months to complete the work. The Receiver has now completed all of the work requested by Mohave County Public Works and all obligations under the cash bond need to be released.

The Receiver has also received tax notices for several properties in Alabama. At the time of appointment, there were over 200 properties in Alabama to administer. According to the Receiver's records all property had been liquidated. Counsel for the Receiver recommended that a title search be done to confirm that none of the properties were still titled to TLC America Inc. A title search was conducted on the properties and the Receiver was able to confirm that all properties had been sold and deeds recorded. It appears that in certain instances the tax assessor's office has not updated their records to show the new owner information for some parcels.

Given the fact that the estate contained 522 separate parcels, it is possible that additional tax notices or claims associated with past ownership of these properties may arise. Rather than delay the termination of the estate any longer the Receiver considers it appropriate to file a final report, terminate the receivership and include language in the Order to extinguish any ongoing personal liability by the Receiver.

## **Final Distribution**

The Receiver requests the Courts approval to make a final distribution to the investors. The Receiver projects a final distribution of approximately \$663,000. With this distribution, the Receiver will have distributed approximately \$70.8 million or 60.7% of approved claims. The Receiver intends to issue Cashier's checks for the final distribution. By issuing Cashier's checks, the receivership estate can be immediately closed and investors will have three years to negotiate their checks.

## **Final Accounting**

Under Tab 1 is the Receiver's final accounting.

The Receiver requests that the Court:

1. Approve and ratify the activities of the Receiver;

2. Approve the fees and expenses of the receivership estate described in the final accounting, including the fees and expenses of the Receiver;
3. Exonerate the assurance bond #XXX-XXX7889 that was opened at California Bank & Trust;
4. Authorize the Receiver to shred all documents of the Receivership Defendants;
5. Discharge the Receiver, his, officers, employees, agents, attorneys and representatives and relieve him of all duties, liabilities, and responsibilities in this proceeding.

The Receiver would like to express thanks and gratitude to the Court for its thoughtfulness, flexibility, diligence and patience in this decade long matter. Absent same, in the opinion of the Receiver, the losses to the victims would have been significantly greater.

Respectfully submitted,

/s/

Robb Evans  
Receiver