

Robb Evans
Receiver in the Matter of
United States of America v. John Allen Wheeler

Report of Receiver's Activities
May 16, 2003 through November 30, 2003

In its May 16, 2003 Order, this Court appointed the Receiver and directed the Receiver to file quarterly reports advising the Court of its progress and for payment of the Receiver's fee and out-of-pocket expenses for the Court's approval. The process of filing reports was delayed due to the delayed sentencing hearing of Mr. Wheeler. In its September 22, 2003 Restitution Order, this Court directed the Receiver to provide the Court with an analysis of investor claims. This Report will address the activities of the Receiver since his appointment and will provide a preliminary analysis of investor claims.

Forfeited Assets

The Court's May 16, 2003 order directed the Receiver to assume and maintain full control of the subject assets. Following is a status report on the assets.

Illiquid Assets

The non-cash assets consist of Personal and Miscellaneous Property which can be categorized as follows:

- ◆ Farm Equipment
- ◆ Farm Vehicles
- ◆ Off Road Recreational Vehicles
- ◆ Mobile Home
- ◆ Miscellaneous Personal Property

The Receiver plans to market the assets for sale by seeking the largest possible exposure and the most cost-effective means of disposition. The Receiver's proposed disposition strategy is based on the current asset inventory. In the event the asset inventory changes, the Receiver respectfully requests the ability to modify the plan accordingly.

It is anticipated that the Receiver will engage the services of a local auction company to sell the off-road recreational vehicles, the farm equipment, and the home furnishings. If it can be arranged, it would be preferable to conduct the auction at the current property site with the cooperation of the defendant. The current property

site will provide a setting that is conducive to such an event, accentuate the utility of the items and eliminate the cost of a facility and storage.

If it is not practical to conduct the auction on the current property site, the Receiver will arrange for the removal and storage of the assets until the date of the auction. At that time, the Receiver will consult with the auction company to find a suitable alternate location. In the interim, if an unsolicited offer is received from a private party, that offer will be evaluated along with any other offers. Any residual items that are not sold at the auction will be placed on E-Bay, an online auction company. If an auction cannot be arranged, the Receiver will sell all the equipment on E-Bay or to an individual vendor(s).

The Receiver will obtain an appraisal for the 18' X 80' mobile home from a licensed appraiser, if available, or two opinions of value from local mobile home dealers. The mobile home will either be sold on consignment through local mobile home dealers or advertised and sold directly. If no retail sale is possible, it will be sold to a dealer.

Liquid Assets

Approximately \$3.2 million remains on deposit with the Court Registry System. The Receiver has not been successful in his effort to have these funds turned over to the Receivership Estate. The Receiver requests that the Court direct the turnover of these funds.

Potential Claims

John Wheeler transferred \$1,000,000.00 to U. S. Reservation Bank and Trust in Arizona. On April 3, 2002, that company was placed into receivership by order of United States District Court for the District of Arizona. The Receiver has contacted the Arizona Receiver and will be filing a claim in the Arizona proceedings on behalf of John Wheeler's victims. The Arizona Receiver has established a claims bar date of June 30, 2004. Therefore, any payment on claims made by the Arizona Receiver will not be until after the claims bar date and the District Court's approval of the Receiver's recommendation for payment of claims.

The Receiver is in the process of analyzing potential claims against third parties to whom John Wheeler diverted the victims' funds. The Receiver anticipates this process will be completed by the end of January 2004.

Preliminary Analysis of Investor Claims

The Receiver took custody of and studied electronic and paper records from the U. S. Attorney's Office. After learning that there were additional electronic records on computers in Wheeler's residence, the Receiver arranged for a local technician to

copy the hard drives and ship them to the Receiver's office. Concurrently, the Receiver discovered that Wheeler's civil attorney held Wheeler's original bank statements. The attorney agreed to ship the documents to the Receiver's office.

The Receiver's accounting staff determined that electronic records from the U. S. attorney's office and the electronic records from Wheeler's computers were marginally different. Additionally, the staff determined that some bank statements were missing, so a complete cross check of receipts and disbursements could not be completed. However, the Wheeler electronic records did include an individual ledger for each investor that was useful to reconcile differences between the two databases.

The Receiver's accounting staff compared the two database records, verified the arithmetical accuracy of the calculations, and reconciled differences to the individual investor ledger. When an account balance difference remained for an investor, the Receiver eliminated the difference by using the lowest investment amount or the highest repayment amount.

After completing the analysis of all electronic databases and the comparison of the differences, the Receiver's staff concluded the total amount raised from 826 investors was \$35,233,874.39. Investors were repaid \$11,527,505.49. Therefore, net investor claims total \$23,706,368.90. The Receiver's staff then prepared proposed individual claim amounts based on the research and analysis completed.

It is possible that the payment amounts to investors will be slightly reduced due to checks that were issued during the final month or two of the fraud but were not cashed or were returned unpaid.

Claims Administration

On November 24, 2003 a statement of claim form was mailed to all investors. The statement of claim form was based on the Receiver's analysis of all data from all sources. The statement itemized their investment(s) and any repayments on the investment, thus arriving at a potential net claim against the restitution fund.

Investors were asked to reply to the statement of claim only if they have documents to dispute the Receiver's analysis. The Receiver requested that any disputes be returned by December 15, 2003. The Receiver is currently analyzing and attempting to resolve claims disputes. This process should be completed in early January 2004.

To the extent the Receiver is not able to resolve a claim, that claim will be presented to the Court along with analysis and a recommendation by the Receiver for the Court's determination.

Victim Communications

The Receiver has established a communications link with the victims on his webpage, robbevans.com. The Receiver has also established a webpage at wheelerj.com. The website provides the current status of the case. In addition, the web page is programmed with an automatic response so future inquiries are automatically responded to with a link to information about the most current status of the case. An email address has also been established for the victims to update their address, email and telephone number information.

Distribution to Victims

The Receiver anticipates resolving any claims disputes during the first quarter of 2004 and will be requesting this Court's approval of a first interim distribution. The source of the proposed distribution is the funds currently held in the Court Registry.

Administrative Expenses

Under Tab 1 is a report of the expenses incurred by the Receivership from inception through November 30, 2003.

Requests of the Court

The Court is respectfully requested to:

1. Approve this report and confirm the actions of the Receiver described therein.
2. Approve and authorize payment of expenses of the Receivership through November 30, 2003 as detailed under Tab 1.

Respectfully submitted,

Robb Evans, Receiver

/s/

By: Brick Kane, Deputy to the Receiver