

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

**Report of Receiver's Activities**  
**June 17, 2005 through November 30, 2005**

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. This is the seventh report. It does not constitute an audit of the financial condition and is intended only to provide information for use by the Court in assessing the progress of the Receivership.

**Assets**

Constructive Trust

During this reporting period, on September 20, 2005 a hearing was conducted in the United States District Court, Eastern District of Texas, Beaumont Division on the Receiver's **MOTION FOR RETURN OF PROPERTY OR VALUE THEREOF AND MOTION FOR IMPOSITION OF A CONSTRUCTIVE TRUST AND MOTION FOR JUDGMENT ON THE PLEADINGS.**

As a result of the hearing, an Order was issued by the Court granting the Receiver's motions imposing a Constructive Trust over the Wheeler ranch and issuing a judgment requiring the repayment of improvements made to the ranch totaling \$1,048,881.19 to be paid by the beneficiaries of those improvements, i.e., the Wheeler family. The Court authorized the Receiver to enter into negotiations with the Wheeler family and if the negotiations do not result in repayment of the judgment, the Court directed that a lien be placed on the property. To protect the asset for the benefit of the estate, the Receiver filed a *lis pendens* on the property on October 14, 2005 in Nacogdoches County, Texas in the amount of \$1,048,881.19.

The property, located at 111 Frances Lane, Route 1, Nacogdoches, Texas, is now owned by Chad Haynes and Brent Haynes, the sons of Nancy Wheeler. Nancy Wheeler's mother, Frances Hanna, was the former owner, and she retains a life estate interest in the property. None of the Wheeler family members filed an opposition to the Receiver's Motion or appeared at the hearing, despite having been served. As part of the Order, the Court directed that Brent Haynes, who had been served a copy of the Motion by federal express, be served by personal service. Brent Haynes was personally served in Lafayette, Louisiana on November 8, 2005. Mr. Haynes was given an opportunity to respond, and he has not contested the Receiver's Motion or the Court Order.

Since the date of the hearing, the Receiver has been in contact with the Wheeler family regarding payment of the judgment. The Receiver hired an experienced MAI licensed appraiser to conduct a real property appraisal using statewide comparables to determine the value of the ranch and its improvements. The appraiser provided a liquidation value based on a quick sale of the property within three months and a fair market value based

on a reasonable marketing timeframe of six to twelve months. Neither value stated by the appraiser is sufficient to repay in full the judgment cited in the Court Order.

As reported at the hearing, a sale agreement for the cutting and sale of timber on the property had been granted. The Receiver also obtained an appraisal for the timber value of the property. The Receiver hired a reputable local forestry firm to conduct a "site recon" valuation of the available timber as well as the timber, which had been clear-cut under the sale agreement. The appraiser concluded that all the timber of any value had been previously clear-cut and that there is no appreciable timber value remaining on the property. The Receiver is reviewing the terms of the aforementioned sale agreement to determine if there is any financial liability to the estate on the part of the grantor or grantee. It appears that the fees paid pursuant to the agreement were substantial and therefore may provide an additional means to satisfying the judgment.

The Receiver has entered into initial discussions with Wheeler family concerning a repayment agreement. The Receiver intends to provide the Wheeler family with a reasonable period of time to assess their options and advise the Receiver of their repayment plan. If no repayment plan is forthcoming, the Receiver will advise the family that the Receiver is prepared to list the property for market and sale. The Receiver will use the net proceeds of the sale to satisfy the judgment and in the event the net proceeds exceed the judgment, the residual proceeds will accrue to the Wheeler family.

#### Pinnacle Energy Group

The Receiver is in the process of contacting Pinnacle Energy Group LLC to make arrangements for the transfer of any lease proceeds currently held in trust and to ratify and continue the mineral leases until the judgment is paid in full or a settlement is reached with the Wheeler family. All payments received will be applied to reduce the judgment for the value of the improvements.

#### U.S. Reservation Bank and Trust in Arizona

As previously reported, John Wheeler transferred \$1 million to U.S. Reservation Bank and Trust in Arizona. That company was placed into receivership by order of the United States District Court for the District of Arizona. A claim in the amount of \$1,000,000 has been filed with the Arizona Receiver. The status of this claim is pending.

At such time as the Arizona Receiver makes payment on the claim and the constructive trust issue is resolved, the Receiver will make a recommendation to this Court for a further distribution to approved claimants.

#### Other Investments

The Receiver is investigating other investments made by John Wheeler, including an investment in an airline charter travel business with a Mr. Thomas Clayton Plummer. The Receiver has identified two wire transfers of \$2 million each to Club Class Travel, Ltd. on March 18, 2002. The Receiver is examining additional bank records regarding funds transferred to Mr. Plummer and Club Class Travel. The Receiver is also investigating a \$2 million payment to the Beta Foundation on or about March 8, 2002. Mr. Plummer is a Manager/Member of the Beta Financial Group LLC, which lists an address of P.O. Box 27740, Las Vegas, Nevada 89126.

The Receiver has confirmed that Mr. Plummer purchased two homes in Tennessee in a one-week span between January 30, 2003 and February 4, 2003. The property located at 5110 Yale Court, Brentwood, Tennessee, where he and his wife resided, and a property located at 781 Sinclaire Circle, Brentwood, Tennessee, where Mr. Plummer's mother, Lillie Fessenden, resides. Mr. Plummer filed for bankruptcy on October 11, 2005. The bankruptcy petition lists substantial debts to credit card companies. In his bankruptcy petition, Plummer lists proceeds from the sale of his home in April of 2005 of \$258,139.73. Real estate records show the property was purchased February 2003 for a purchase price of \$1,250,000 and sold on March 31, 2005 for a price of \$1,350,000.

Mr. Plummer's bankruptcy petition also lists an interest in Elegaire Airways from July of 2003 to October of 2005. Elegaire Airways, Inc. is a Nevada company, with a business address of 318 North Carson Street, #208, Carson City, Nevada 89701. Thomas C. Plummer is listed as the President as of March 22, 2005. Mr. Plummer is also listed as an officer, director or manager of the following companies, also located at the same business address: Elegaire Financial Services, Inc.; Elegaire Ltd.; Flight Nexus, Inc.; and Gamma Finance Ltd. Members of the Receiver's staff have met with one of the investors of Elegaire Airways. The Receiver is continuing to investigate the transfers to Mr. Plummer and Elegaire Airways.

### **Administrative Expenses**

Under Tab 1 is a report of the expenses incurred by the Receivership from September 1, 2005 through November 30, 2005. The Declaration of Jeffrey M. Olshan is attached as Tab 2.

### **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 from September 1, 2005 through November 30, 2005 as detailed under Tab 1.

Respectfully submitted,

/s/

Robb Evans  
Receiver