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Attorney for the Independent Fiduciary, Jeanne Bryant

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

THOMAS E. PEREZ, Secretary of the United  
States Department of Labor,

Plaintiff,

v.

MATTHEW D. HUTCHESON, HUTCHESON  
WALKER ADVISORS LLC, GREEN VALLEY  
HOLDINGS LLC, and the RETIREMENT  
SECURITY PLAN AND TRUST, f/k/a PENSION  
LIQUIDITY PLAN AND TRUST,

Defendants.

Case No.: 1:12-CV-00236-EJL

JULY 2014 INDEPENDENT FIDUCIARY REPORT AND FEE NOTICE OF COSTS  
AND EXPENSES

PURSUANT TO THE Preliminary Injunction entered on June 13, 2012 [Doc. 16], Jeanne  
B. Bryant, Independent Fiduciary for Retirement Security Plan & Trust (RSPT) submits this  
Twenty-Seventh Report and Notice for the period beginning July 1, 2014 – July 31, 2014.

## I. ACTIVITY REPORT

### ADMINISTRATIVE FEE COLLECTIONS

The Independent Fiduciary (“IF”) informed the Sponsoring Employers of the current status of their individual collections involving payment of the monthly administration fee. Attached as **Exhibit 1** is a report noting the collections and payments made from the account for previously approved fees and cost through July 2014. The Independent Fiduciary has determined to collect any unpaid monthly administration fees using the same process previously approved by the Court.

### ASSET RECOVERY EFFORTS

As previously reported, the IF hired contingency counsel for asset recovery legal services, and has received payment from ASPIre for any amounts due for previously approved fees and costs concerning the PCB investment from those members holding such accounts. All costs have been paid by the RSPT sponsor employers and/or the RSPT Plans on an ongoing basis, pursuant to the payment submission and approval procedures previously outlined in the court’s Preliminary Injunction Order entered on June 13, 2012.

The Note concerning the PCB investment has been turned over to the RSPT asset recovery counsel in Idaho. A foreclosure action was filed against Green Valley Holdings and West Mountain Golf. A Stipulated Order of Foreclosure was entered. The IF is working with asset recovery counsel on scheduling a sale and is advising the RSPT employer sponsors on an ongoing basis. The IF is currently disputing the ongoing use by Tamarack Resort owners of the golf course and lodge facilities securing the Note. These owners continue to use the facilities pursuant to a previous lease agreement with West Mountain Golf which the IF (on behalf of RSPT as lender) has terminated, and which did not require any significant lease payments to

West Mountain Golf. There has been discussion of a possible meeting with all the involved parties to take place as soon as possible to try to move forward with the sale. The IF has agreed to such a meeting, and has attempted to schedule same. Originally, the IF was seeking a meeting with some of the key players to work out a resolution on issues we believe are hampering our efforts to sell these properties. Unfortunately, Tamarack Municipal Association was unable to meet that goal and simply offered to be available for a tour of the facilities. This type of meeting would have been expensive and would not have moved the process of resolution forward.

Neither Tamarack Municipal Association (“TMA”) nor the Lodge at Osprey Meadows Association (“LOMA”) have shown an interest in working with the IF to resolve issues hampering the sale, instead they seem to want to preserve a status quo whereby local homeowners and others benefit from the operation of the properties, without an income benefit to the RSPT plan. As a result, we are proceeding to require TMA to make regular lease payments for its continued use of the golf course and lodge properties to remove them as an obstacle to a sale. In the interim, a letter requesting lease payments has been sent.

The IF is pursuing a fiduciary bond claim on the fiduciary bond insuring against Hutcheson’s actions. This case remains ongoing, with the parties currently engaging in discovery and discussing settlement options. The IF is also pursuing recovery of a house located within Tamarack Resort that was previously owned by Green Valley Holdings, LLC (Hutcheson’s company that “borrowed” the funds from RSPT to purchase the golf course note and mortgage). That matter also remains pending, with the Defendants (and current owners – Mr. Hutcheson’s mother- and father-in-law) actively defending that case. A trial in that matter is currently set for March 30, 2015. The IF also continues to investigate potential additional claims against additional parties.

## II. ANTICIPATED FUTURE ACTIVITIES AND RESOLUTION OF ISSUES

1. Early Withdrawal Procedures. As stated in earlier reports, an early withdrawal process has been discussed with the Department of Labor and the IF filed information and the process that would be followed in the October Report filed with the Court in early December 2012. There were no objections filed to that process. As of this report 11 employers have completed the early withdrawal process, and 3 employers have partially completed the process.

2. Valuations for Individual Employers. Employers under the terms of the RSPT Plans' Documents are required to provide an annual independent business valuation to the Plans' trustee and administrator. The co-trustee agreements executed by each sponsoring employer require a business valuation to be submitted by May 31 following the end of a plan year at 12-31. As of the filing of this report 11 employers have submitted their business valuations for valuations as of 12-31-2013.

3. Directed Investments by Members. The IF has determined not to amend the Plan Document to allow participants to direct individual investments and to maintain the current Plan structure. Investment changes can be made by contacting the IF's office who, once receiving appropriate documentation, will issue instructions to ASPire. The available mutual funds are not being changed.

4. Hardship Applications. The IF has received ten hardship applications from participants. Six hardship applications have been granted and six have been paid. Three remain pending for completed distribution forms and additional information. The other remains pending due to the fact the account has no liquid balance. The IF believes that, given the strict limitations on hardship distributions, no significant harm to the RSPT plans will occur if hardship applications are allowed to be processed. The IF has established procedures for handling

hardship distribution applications and required minimum distributions, and after consultation with the DOL believes the previous Orders issued by the Court allow the IF to process hardship distribution applications without any other Orders being required. The IF has adopted an amendment to the plan in order to assist members with this process and has sent out Notice of this amendment to the members.

### III. ACCOUNTINGS REGARDING THE RSPT PLANS

As noted in Section 18 of the June 13, 2012 Preliminary Injunction, before causing the RSPT Plans to pay compensation, fees or expenses, the IF is to provide written notice (the “Fee Notice”) of such compensation, fees or expenses, by filing the Fee Notice (such as set forth herein) with the Court, and by serving a copy of that filing to the Secretary of the U.S. Department of Labor, Employee Benefits Security Administration, Hutcheson and HWA. The IF intends to submit her Fee Notice and Activity Report on a monthly basis. If, within fifteen (15) days after filing of a Fee Notice, no objection to the Fee Notice, nor to payment by the Plan of the compensation, fees or expenses described therein, is filed with the Court, such compensation, fees or expenses shall be deemed reasonable expenses of the RSPT Plans and shall be paid by the RSPT Plans without further action or approval of the Court. The fees and expenses will be allocated as outlined above. In an effort to reduce costs, copies of this Report and Fee Notice are being posted to a website of the IF’s company Receivership Management, Inc. (“RMI”) and the participating employers will be given notice of the filing.

Attached hereto as **Exhibit 2** is a schedule of the hourly rates for the Independent Fiduciary and the hourly rates of any staff of Receivership Management, Inc. that might be used to carry out the terms of the Court’s June 13, 2012 Preliminary Injunction.

Attached hereto as **Collective Exhibit 3** are expense summaries for the period of July 1, 2014 – July 31, 2014.

Total expenses, as listed on **Collective Exhibit 3** include \$2,655.00 in IF fees, \$879.49 in legal expenses, and \$6,343.44 in contract labor expenses (which include auditor fees and identified charges for other fees, postage, copies, telephone, travel, etc.) for the period of July 1, 2014 – July 31, 2014.

Please note that counsel have, as necessary, redacted exact descriptions of litigation issues in order to protect applicable privileges, and the IF may also redact the names of employers and or members as to protect the companies or the members involved when responding to individual questions if required. The IF believes that the remaining descriptions are sufficient for approval of the charges requested. All expenses and fees are separated between those costs necessary for administration and those costs necessary for asset recovery, and will be paid as noted in this report.

In the absence of any objection, total reimbursement for \$2,655.00 in IF fees, \$879.49 in legal expenses and \$6,343.44 in contract labor expenses for administration and litigation will be paid from the Plan's expense reserve in accordance with the Court's June 13, 2012 Preliminary Injunction. The exact amounts and the parties to be paid are listed below:

1.	Jeanne Barnes Bryant	\$2,655.00
2.	Angstman Johnson	\$179.49
3.	Berry & Tudor	\$700.00
4.	Receivership Management Inc.	\$6,343.44
	\$5,252.25/Contract labor	
	\$1,091.19/Other expenses	

Pursuant to the Court's June 13, 2012 Preliminary Injunction [Doc. 16], if no objection is filed with the Court within fifteen (15) days after the filing of this Notice and Report, the IF will proceed to authorize payments due counsel and any other parties listed.

DATED this 22<sup>nd</sup> day of August, 2014.

/s/ Matt Christensen

MATTHEW T. CHRISTENSEN

Attorney for Jeanne B. Bryant, Independent  
Fiduciary for RSPT Plans

CERTIFICATE OF SERVICE

I hereby certify that on this 22<sup>nd</sup> day of August, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the individual(s) so noted below.

Jamila B. Minnicks	minnicks.jamila@dol.gov
Michael R. Hartman	hartman.michael@dol.gov
Michael A. Schloss	schloss.michael@dol.gov
Raymond E. Patricco	raymond.patricco@usdoj.gov
Michael J. Elia	mje@mbelaw.net
J. Graham Matherne	gmatherne@wyattfirm.com
Matthew T. Christensen	mtc@angstman.com

All others as listed on the Court's ECF Notice.

I further certify that on the 22<sup>nd</sup> day of August, 2014, I served a copy of the foregoing notice on the following individuals or entities via US Mail, postage prepaid.

Matthew D. Hutcheson  
33 Pinnacle Court  
Donnelly, ID 83615

Matthew D. Hutcheson 14620-023  
Federal Correctional Institution  
P.O. Box 3007  
Terminal Island, CA 90731

Matthew D. Hutcheson  
14076 Morell Road  
McCall, Idaho 83638

Monty W. Walker  
c/o R. Bradford Huss  
Trucker Huss, APC  
One Embarcadero Center, 12<sup>th</sup> Floor  
San Francisco, CA 94111

DATED: August 22, 2014

/s/ Matt Christensen  
Matthew T. Christensen