

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA
CIVIL DIVISION**

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

Plaintiff,

vs.

Case No.: 04-CA-2130-16-W

UNIVERSAL LUXURY COACHES, LLC,

Defendant.

RECEIVER'S VERIFIED REPORT AND INVENTORY AS OF JUNE 30, 2016

Burton W. Wiand, the Court-appointed Receiver for Universal Luxury Coaches, LLC (“ULC”)¹, hereby files this Interim Report and Incorporated Report of Inventory as of June 30, 2016 (“**Interim Report**”) to inform the Court, the investors, and others interested in the Receivership Entities of activities to date, as well as the proposed course of action.²

Overview of Significant Activities During this Reporting Period

During the time covered by this Interim Report, the Receiver and professionals he has retained have engaged in the following significant activities:

- Attended a mediation on March 17, 2016 with all Defendants, except Donald Rett and Scott Spor.

¹ Gary D. Lipson was originally appointed Receiver by order dated October 5, 2004. However, Mr. Lipson passed away and Mr. Wiand was appointed as a substitute Receiver on September 15, 2015. With respect to legal services, the Receiver retained Wiand Guerra King P.A and also utilized Winderweedle, Haines, Ward & Woodman, P.A., who was originally retained by Receiver Lipson, to assist with the transition.

² This Interim Report is intended to report on information and activity from January 1, 2016 through June 30, 2016. As directed by the Court, the Receiver will submit his next Interim Report to the Court by February 13, 2017.

- Reached a settlement agreement with the participating Defendants wherein the Defendants agreed to pay the Receiver **\$3,500,000**.
- Obtained Court approval of the above settlement agreement and secured payment of the full settlement amount.
- Continued factual and legal analysis of the claims against Donald Rett and Scott Spor.
- Scheduled a mediation for August 16, 2016 with Donald Rett.
- Carefully reviewed and considered all Claim Forms submitted by claimants along with any documents submitted with the claims and a forensic analysis of the flow of funds in the ULC bank accounts to determine the appropriate allowed amount of each claim.

BACKGROUND

I. Procedure and Chronology.

On October 5, 2004, the State of Florida, Office of Financial Regulation (“**OFR**”) filed a complaint in the Circuit Court for the Eighteenth Judicial Circuit in Seminole County against ULC charging it with violations of the Florida securities laws and seeking to enjoin its violations of these laws in connection with a fraudulent scheme to offer and sell unregistered securities. The OFR alleged that ULC, through its various members of the sales force, obtained approximately \$7 million from 150 investors as a result of material misrepresentations or omissions and sale of unregistered securities. The Court entered a temporary injunction against ULC and its members, shareholders, directors, officers, agents, servants, employees and attorneys and those in active concert or participation with any of the foregoing from, *inter alia*, employing any device, scheme or artifice to defraud and selling unregistered securities.

By the same order dated October 5, 2004, the Court also appointed Gary D. Lipson as Receiver over ULC (the “**Order Appointing Receiver**”). Pursuant to the Order Appointing Receiver, the Receiver has the duty and authority to, among other things, take immediate

possession of all assets and properties of the Receivership Entities and hold and manage them until further order of the Court; and marshal and safeguard all such properties and assets. (Order Appointing Receiver at 5.). Since his appointment on October 5, 2004 until his passing, Receiver Lipson undertook a number of steps to fulfill his mandates under the Order Appointing Receiver. Mr. Wiand was appointed as a substitute Receiver on September 15, 2015 and has continued to undertake steps to fulfill these mandates.

II. Inventory Of Property And Actions Taken By The Receiver.

A. Inventory

Pursuant to an Administrative Order and Rule 1.620(b) of the Rules of Civil Procedure, the Receiver was required to file with this Court an initial inventory of the properties of ULC coming under the Receiver's control or possession within twenty days of his appointment. On or about October 25, 2004, Receiver Lipson filed with this Court the Receiver's Initial Report and Inventory (the "**Initial Report**").

On June 23, 2005, this Court entered an Order Clarifying and Modifying the Reporting Requirements of the Receiver. Pursuant to such Order, the Receiver is required to file an inventory and account on a semi-annual basis, as of the last day of June and December of each year, commencing as of June 30, 2005, with each such report being due not later than forty-five days after the end of each such period. Receiver Lipson previously filed with this Court the Receiver's Report and Inventory as of June 30, 2005 (the "**June 30, 2005 Report**"), the Receiver's Report and Inventory as of December 31, 2005, the Receiver's Report and Inventory as of June 30, 2006, the Receiver's Report and Inventory as of December 31, 2006, the Receiver's Report and Inventory as of June 30, 2007, the Receiver's Report and Inventory as of December 31, 2007, the Receiver's Report and Inventory as of June 30, 2008, the Receiver's

Report and Inventory as of December 31, 2008, the Receiver's Report and Inventory as of June 30, 2009, the Receiver's Report and Inventory as of December 31, 2009, the Receiver's Report and Inventory as of June 30, 2010, the Receiver's Report and Inventory as of December 31, 2010, the Receiver's Report and Inventory as of June 30, 2011, the Receiver's Report and Inventory as of December 30, 2011, the Receiver's Report and Inventory as of June 30, 2012, the Receiver's Report and Inventory as of December 31, 2012, the Receiver's Report and Inventory as of June 30, 2012, the Receiver's Report and Inventory as of December 31, 2012, the Receiver's Report and Inventory as of June 30, 2013, the Receiver's Report and Inventory as of December 31, 2013, the Receiver's Report and Inventory as of June 30, 2014 and the Receiver's Report and Inventory as of December 31, 2014.³ On February 15, 2016, Receiver Wiand filed with this Court the Receiver's Report and Inventory as of December 31, 2015.

During the period from January 1, 2016 through June 30, 2016, the Receiver received funds into, and disbursed funds from, bank accounts under his control as is set forth on Exhibit A attached hereto. As of June 30, 2016, the Receiver held \$3,686,714.73 in cash in bank accounts. The Receiver continues to hold all of the items listed in the Initial Report and the June 30, 2005 Report, other than the six luxury motor coaches sold by Receiver Lipson as is described in paragraph 4 of the June 30, 2005 Report.

B. Litigation

On July 31, 2006, Receiver Lipson filed an action against certain individuals and entities, including Conrad Clement, Scott Spor, James Wooley, Donald Rett, Featherlite, Inc., Nevada

³ A Receiver's Report and Inventory as of June 30, 2015 was not filed due to the death of Receiver Lipson. The Receiver's Report and Inventory as of December 31, 2015, however, illustrated the additional interest added to the Receiver's account during January 1, 2015 through June 30, 2015. No expenditures were paid in 2015.

Coach Partners, LLP, and Clement Enterprises, based upon their respective roles in the creation, management, and/or operation of ULC and their participation in ULC's offer and sale of securities and/or timeshare interests ("**Featherlite Lawsuit**"). Receiver Lipson, through his counsel, engaged in significant discovery to develop his claims against the Defendants in an attempt to recover assets for ULC and its investors.

On July 24, 2014, Receiver Lipson filed a Third Amended Complaint against the Defendants, which raised a number of statutory and common law claims, including but not limited to, violations of Chapter 517 of the Florida Statutes, fraud, unjust enrichment and fraudulent transfers. With respect to Defendant Rett, the Receiver maintained his legal malpractice claim. The Receiver seeks to recover damages, interest, attorneys' fees and costs from Defendants.

Defendants Featherlite, Clement, and Wooley moved to dismiss the Third Amended Complaint on July 30, 2014. The Court granted in part and denied in part these defendants' motion in August 2015. With respect to the portion of the motion that was granted, Receiver Lipson agreed to withdraw certain, but not all, claims under Chapter 517 against these Defendants. Their motion with respect to all other claims was denied. On August 4, 2014, Defendant Rett moved for summary judgment with respect to the Receiver's legal malpractice claim, but the Court denied his motion by order dated January 29, 2015.

On March 17, 2016, Receiver Wiand mediated the Featherlite Lawsuit with all Defendants, except Defendants Rhett and Spor. As a result of that mediation, the Receiver reached a settlement with the participating Defendants. On March 30, 2016, the Receiver filed a motion to approve the settlement. In pertinent part, the settlement agreement provided that the settling Defendants would pay \$3,500,000 to the Receiver within twenty days of the Court's

approval of the settlement. In reaching this agreement, the Receiver considered multiple factors including: (1) the risks and expenses of the litigation; (2) the age of the case – the underlying actions took place over ten years ago; and (3) the vigorous defenses asserted by the settling defendants. Given those factors, the Receiver believes that the settlement provided a practical solution which resulted in the maximum benefit to the Receivership. The Court approved the settlement on May 2, 2016 and the Receiver has received full payment of the settlement amount.

The Receiver continues to pursue his claims against Defendants Rett and Spor. A mediation of the Receiver's claims against Defendant Rett is scheduled for August 16, 2016.

C. Claims Process.

On February 8, 2006, Receiver Lipson filed a motion to initiate the claims process. The motion sought the Court's approval of (1) a Claim Form and procedure to administer claims and (2) notice by mail and publication ("**Claims Motion**"). On February 16, 2006, the Court granted the Receiver's Claims Motion. By a subsequent order, the Court established September 15, 2006 as the last date that claims may be submitted to the Receiver (the "**Claim Bar Date**").

On February 20, 2006, Receiver Lipson mailed letters to known investors informing them of the claims process and providing a copy of the Claim Form. The Receiver received 138 submitted Claim Forms from investors in the amount of approximately \$6,867,892.27.⁴ As far as Receiver Wiand is aware, no Claim Forms from non-investor creditors were submitted. Receiver Lipson's paraprofessional appears to have conducted an initial review of the claims and Receiver

⁴ The amount set forth above does not include unspecified claims for interest or fees which may be sought by some claimants. Further, these numbers reflect the amount to which the claimants are claiming they are entitled, and not how much the Receiver has determined is the value of proper and allowable claims.

Lipson sent letters accepting all claims but one.⁵ After Receiver Wiand's appointment, he began a review of the submitted claims and related documents and discovered that Receiver Lipson had not completed his analysis of the claims. While he sent letters to claimants with a generic acceptance of the claims, he did not specify the allowed amount to which each claim was entitled to receive. The Claim Form requested the claimant to identify the amount claimed on the first page of the form, but then asked if the claimant had received any payments with respect to the claim on the second page. For the most part, the claimants identified the full amount of their investment as their "Claim Amount," but failed to account for payments they had received over the course of their investment.⁶ Ostensibly, as no distribution to claimants was imminent prior to Receiver Lipson's demise, he and his professionals had not undertaken this final step of determining the allowed amounts of claims submitted. Accordingly, Receiver Wiand has carefully reviewed the claims submitted, including any documents submitted with each claim. The Receiver also has reviewed documents prepared by forensic accountants which analyzed the flow of funds in the ULC bank accounts prior to the appointment of a Receiver to determine payments made to claimants.

⁵ The one claim which does not have an acceptance letter on file is in the amount of \$5,148.85. The Receiver has not found a rejection letter for this claim nor does he see any reason why this claim was not accepted as the other claims were. It is possible that the acceptance letter inadvertently was not placed into the file or not sent to the Claimant.

⁶ The method of calculating an investor's loss in a claims process regularly adopted by receivership courts is the net investment method. The net investment method takes into account the actual dollars the claimant "invested" less any amounts the claimant already received. The net investment method represents the most equitable and practical approach for determining investor claim amounts and a common approach for handling investor claims in a receivership involving a fraudulent investment scheme

Shortly after the filing of this Report, the Receiver intends to mail a letter to each claimant which will set forth his recommended determination of the claim (the “**Determination Letter**”). The Determination Letter will identify the total investment amount, the total payments received, and the resulting Allowed Amount. The Allowed Amount is the amount to which the Receiver has determined the claim is entitled. It is unlikely that the Receiver will be able to recover sufficient funds to pay all claimants’ Allowed Amounts in full. Therefore, the Receiver will file a motion with the Court seeking approval of an interim distribution on a *pro rata* basis to each claimant holding an accepted claim with an Allowed Amount greater than zero. The Receiver will propose that each such claimant receive a percentage of their Allowed Amount on a *pro rata* basis based on the assets to be distributed.

If the claimants do not agree with the Receiver’s determination as set forth in the Determination Letter, the claimants will have twenty days from the date of the mailing of the Determination Letter to submit a written objection to the Receiver. Once the time for objections has expired, the Receiver will submit a motion to the Court to (1) approve his recommended determinations of the claims and (2) approve a plan of distribution and a first interim distribution. If a claimant does not timely serve an objection to the Receiver’s determination of the claim, the Receiver will ask the Court to deem such a failure to object as an acceptance of the Allowed Amount as set forth by the Receiver and find that the claimant has waived his or her right to object to or contest the determination of the claim. If at the time of filing the motion, any timely objections remain unresolved, the Receiver will include the objections along with his recommended claim determinations in the motion to the Court. At this time, the Receiver anticipates seeking approval of a first interim distribution of approximately \$2.5 million to

claimants with accepted claims, which should result in the recovery of approximately 40% of the Allowed Amounts of these claims.

III. The Next 6 Months.

The Receiver will continue his investigation and analysis of ULC. He will mail the Determination Letters to all claimants and will address any objections or other inquiries he receives relating to these letters. The Receiver and Mr. Rett will mediate the Featherlite Lawsuit on August 16, 2016 in hopes that the matter can be amicably resolved. The Receiver will make every effort to reach compromises that are in the best interests of ULC and the investors. If the matter is not resolved at mediation, the Receiver will continue to pursue the Featherlite Lawsuit against Defendants Rett and Spor.

In an effort to more fully understand the conduct at issue and in an attempt to recover assets, the Receiver will continue to conduct interviews and/or depositions of parties and third parties who may have knowledge of ULC and its operations.

DATED this 15th day of August, 2016.

Respectfully submitted,

s/Michael S. Lamont

Michael S. Lamont, Lead Counsel

Florida Bar No. 0527122

Jordan D. Maglich, FBN 0086106

WIAND GUERRA KING P.A.

5505 West Gray Street

Tampa, Florida 33609

Telephone: (813) 347-5100

Facsimile: (813) 347-5198

Attorneys for Burton W. Wiand, Receiver

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on August 15, 2016, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court by using the Florida Courts E-Filing Portal, which served the following party:

A. Gregory Melchior, Esq., Assistant General Counsel
State of Florida, Office of Financial Regulation
1313 Tampa Street, Suite 615
Tampa, FL 33602-3394

James Edward Cheek, III, Esq.
Winderweedle, Haines, Ward & Woodman, P.A.
329 Park Avenue North, 2nd Floor
Winter Park, FL 32789

s/Michael S. Lamont
Michael S. Lamont, FBN 0527122

RECEIVER'S VERIFICATION

I declare and affirm under the penalties of perjury that the foregoing facts are true and correct to the best of my knowledge and belief.

s/Burton W. Wiand
Burton W. Wiand, as Receiver

Exhibit A

**Cash Receipts and Expenditures
January 1, 2016 through June 30, 2016**

USAmeribank Transactions

1/29/2016	Interest	\$70.12		\$184,005.22
2/29/2016	Interest	\$65.62		\$184,070.84
3/31/2016	Interest	\$70.17		\$184,141.01
4/29/2016	Interest	\$67.93		\$184,208.94
5/6/2016	Wire In Settlement Proceeds	\$2,800,000.00		\$2,984,208.94
5/11/2016	Wire In Settlement Proceeds	\$700,000.00		\$3,684,208.94
Date	Transaction	Receipts	Expenditures	Balance
5/31/2016	Interest	\$1,146.20		\$3,685,355.14
6/30/2016	Interest	\$1,359.59		\$3,686,714.73