

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

Plaintiff,

vs.

Case No.: 14-001695-CI

TRI-MED CORPORATION,
TRI-MED ASSOCIATES INC., JEREMY
ANDERSON, ANTHONY N. NICHOLAS,
III, ERIC AGER, IRWIN AGER, TERESA
SIMMONS BORDINAT a/k/a TERESA
SIMMONS, and ANTHONY N.
NICHOLAS, JR.,

Judge Anthony Rondolino

Defendants.

vs.

TMFL HOLDINGS, LLC

Relief Defendant.

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THE RECEIVER'S SUPPLEMENTAL REPORT

Burton W. Wiand, the Court-appointed Receiver for Tri-Med Corporation (“**Tri-Med**”), Tri-Med Associates Inc. (“**TMA**”), and TMFL Holdings, LLC (“**TMFL**”) (collectively the “**Receivership Entities**”), hereby files this Supplemental Report (“**Supplemental Report**”) to inform the Court, the investors, and others interested in the Receivership Entities of significant recent activities of the Receivership. Pursuant to the Order Appointing the Receiver, the Receiver is required to file Interim Reports every 120 days. The Receiver’s next report is due to the Court on March 20, 2015. The Receiver, however, wishes to inform the Court and the investors of significant activities which recently have been completed and/or are underway at this time. For more information regarding the Receivership in general

and other activities of the Receiver, please refer to the Receiver's previously filed Interim Reports which are available on the Receiver's website, www.trimedreceivership.com. A copy of this Supplemental Report will be posted on this website.

Overview of Significant Activities In This Report

The Receiver and professionals he has retained have engaged in the following recent significant activities:

- Initiated the Claims Process by filing a motion to approve (1) a Proof of Claim Form and procedure to administer claims; (2) a deadline for filing Proofs of Claim; and (3) notice by mail and publication, and mailed 293 letters to investors advising them that this motion had been filed;
- Filed complaints asserting fraudulent transfer and unjust enrichment claims against "sales agents" seeking the recovery of commissions and/or other payments these agents received for selling purported "investments" in Tri-Med in Florida;
- Opposed and prevailed on "sales agent" A.J. Brent's emergency motion for protective order wherein Mr. Brent sought to avoid the Receiver's scheduled deposition of him or limit the Receiver's ability to question him;
- Deposed Mr. Brent and discovered through his testimony that (1) Mr. Brent is in close and frequent contact with Defendant Jeremy Anderson and is the intermediary between the lawyers who filed a motion for relief from this Court's injunction to file an involuntary bankruptcy petition for Tri-Med and the six investors behind that motion; (2) Anderson and Tri-Med sales agents are likely paying the attorneys' fees to mount these efforts; and (3) these six investors were likely given false information about why they should file involuntary bankruptcy petition;
- Opposed efforts to place Tri-Med into involuntary bankruptcy which appears to be an ostensible effort for Defendants and sales agents like Mr. Brent to exert influence and/or control over Tri-Med and its assets and to thwart the Receiver's and the State of Florida's efforts to hold Defendants and others such as Mr. Brent accountable for their unlawful activities;
- Recovered the total amount of **\$752,089.25** in payment of accounts receivable since the appointment of the Receiver through February 11, 2015;
- Created a cost-effective mechanism by which to negotiate and collect on the remaining outstanding accounts receivable on favorable terms to the Receivership estate through the retention of Thomas Carey, an individual experienced in

purchasing and negotiating medical accounts receivable, and filed a motion to approve the retention of Mr. Carey for this purpose;

- Secured contracts, pending inspection and Court approval, in a combined amount of \$295,000 for two of the real properties in the possession of the Receivership;
- Formed an Investors Committee which would consist of a small number of defrauded investors who would be able to convey to the Receiver the investors' views regarding actions of the Receivership and provide information to other defrauded investors.

The above activities are discussed in more detail in the pertinent sections of this Supplemental Report.

Background

On March 4, 2014, the State of Florida, Office of Financial Regulation (“**OFR**”), initiated this action against the Defendants seeking emergency relief to stop a fraudulent investment scheme involving hundreds of mostly elderly victims. That same day, on the OFR’s motion, the Court entered an order appointing Burton W. Wiand as Receiver for Tri-Med Corporation and Tri-Med Associates Inc. (the “**Order Appointing Receiver**”). On May 13, 2014, the Court granted the Receiver’s motion to expand the scope of the Receivership to include Relief Defendant TMFL Holdings, LLC. Tri-Med Corporation, Tri-Med Associates, and TMFL Holdings are hereinafter collectively referred to as the “**Receivership Entities.**”

The Receiver’s ensuing investigation has shown that the Defendants violated Florida securities laws from at least 2011 forward by raising over \$17 million through the offer and sale of unregistered securities based on misrepresentations that, among other things, those funds would be (a) used to purchase medical accounts receivable purportedly backed by Letters of Protection (“**LOPs**”)¹ and (b) safeguarded by being kept in an attorney trust account. These

¹ LOPs are typically provided by accident victims, and their attorneys, who are seeking damages from another party’s insurance company to medical clinics that agree to see them. These treating
(footnote cont’d)

representations were false, as were many others. At best, only approximately 25% of investor funds were used to purchase LOPs, and of the more than \$17 million raised from investors, Defendants and their related entities directly received or benefitted from approximately \$6.5 million, or 38% of investor funds.

Since the appointment of the Receiver, Defendants have filed numerous motions in an effort to derail and impede the efforts of the Receiver and the Receivership. On October 22, 2014, the Court heard evidence for most of the day on one such motion, the Defendants' emergency motion to vacate and dissolve the Receivership and temporary injunction. At the conclusion of the hearing, the Court found "the evidence is clear and convincing and reaches a very high level that this was a fraudulent scheme to steal people's money." The Court added, "[t]he whole series of introduction of evidence and testimony in this case is highly suggestive of numerous criminal offenses that . . . [the Defendants] might be fearful of from tax evasion to securities violations to fraud and theft, et cetera et cetera." Thus, while the Defendants touted an investment opportunity in medical receivables as safe as an investment in certificates of deposit, in reality, it was a fraudulent scheme in which money raised from new investors and additional money raised from existing investors was, among other things, used to (1) make purported "interest" payments to investors; (2) re-pay investors their purported "principal"; (3) pay substantial purported "commissions" to "sales agents" for successfully soliciting investors; and (4) pay an astounding 27% of funds from investors to themselves as purported "management

medical clinics agree to provide treatment in exchange for a LOP from the patient and the attorney, and not from any insurance company. The LOP is essentially a promise to pay a reasonable fee for necessary medical services from any settlement or judgment obtained by the patient in connection with the accident. Often due to cash flow constraints, these medical clinics sell these accounts receivable at a discount to other businesses.

expenses,” “office expenses,” and “overhead.” Only approximately \$4 million of the over \$17 million raised from investors was ever used to buy LOPs.

For more information regarding the Receiver’s findings, please refer to the Receiver’s Interim Reports.

Significant Activities Recently Undertaken or Currently Underway.

This Supplemental Report is intended to report on significant recent activities. For more information regarding all actions taken by the Receiver, please refer to the Receiver’s regularly filed Interim Reports.

1. Initiated the Claims Process.

The Receiver and his professionals have spent considerable time examining voluminous documents relating to the Receivership Entities and, to the extent necessary, reconstructing their books and records. The Receiver has completed his review and analysis of documents relating to each investment to determine the amounts owed, if any, to each investor. The Receiver is close to concluding the process of determining the legal obligations of the Receivership Entities, and to confirm the extent of those obligations, and to allow investors, other potential creditors to advise the Receiver of any additional possible claims against the Receivership Entities, on February 9, 2015, the Receiver filed a motion to initiate the claims process. The motion seeks the Court’s approval of (1) a Proof of Claim Form and procedure to administer claims, (2) a deadline for the filing of proofs of claim, and (3) notice by mail and publication. On February 10, 2015, the Receiver mailed a letter to each investor informing them of the filing of this motion and advising them that the motion and its exhibits are available on the Receiver’s website or can be obtained by calling the Receiver’s office.

To make the claims process easier for investors, the Receiver has proposed to the Court that he mail a Proof of Claim Form to the last known address of each known investor and include

with the Proof of Claim Form instructions for completing the form. Further, to the extent possible, the Receiver proposed to include with the Proof of Claim Form the Net Investment Amount the Receiver has calculated for each investor – which is the amount of money the pertinent investor is owed according to the records the Receiver has recovered. For more information regarding the claims process and the proposed procedures, please refer to the claims process motion and exhibits available on the Receiver’s website, www.trimedreceivership.com.

2. Commenced Litigation Against “Sales Agents.”

On February 17, 2015, the Receiver initiated actions against “sales agents” seeking to recover commissions and/or other payments which were fraudulently transferred to them. These actions have been brought against the following: (1) Jodie and Jeffrey Miller, seeking recovery of approximately \$134,208.20; (2) William Gross, seeking recovery of approximately \$142,200.02; (3) John Parker, seeking recovery of approximately \$56,452.70; (4) Elliot Simon, seeking recovery of approximately \$24,630.00; (5) A.J. Brent, seeking recovery of approximately \$104,642.40; (6) George Roe, seeking recovery of approximately \$6,350.00; (7) John Burns, seeking recovery of approximately \$1,850.00; (8) Barbara Ager, seeking recovery of approximately \$13,345.00; and (9) Total Retirement Security Planning and Mentoring Group, LLC, Lauren Lindsay, Donald Brothers, Scott S. Schultz, Lisa Schager-Smith, Edward Wendol, James Britain, Thomas Tyrkala, John Persico, Rosanna Okenquist, David Okenquist, and Joe Manassa, seeking recovery of approximately \$190,097.35.

The Receiver is continuing to evaluate claims he may have against other individuals and entities which may have liability in connection with the Defendants’ fraudulent scheme. The Receiver will institute actions when liability is apparent and collection is likely.

3. Opposed Ostensible Efforts by the Defendants to Place Tri-Med Into Involuntary Bankruptcy to Try to Exert Influence or Control Over Tri-Med and Its Assets and to Try to Thwart the Receiver's and OFR's Efforts.

The Receiver has also opposed two motions brought by several scheme victims seeking relief from the injunctive provisions of the Order Appointing Receiver to file a voluntary and/or involuntary bankruptcy petition on behalf of Tri-Med. The Receiver has learned that these efforts are being orchestrated by one or more Defendants, including Defendant Anderson, and that he and “sales agents” have sought to fund those efforts. Indeed, Defendants Anderson and Anthony N. Nicholas, Jr. recently admitted that they had been involved in communications with an individual they had selected to assume control of Tri-Med during bankruptcy. In carrying out this conspiracy, Defendants have caused numerous misrepresentations and omissions to be made to scheme victims – essentially re-victimizing these same victims. Through these efforts, Defendants are seeking not only to wrest control of the Receivership Entities away from the Receivership, but also to thwart aggressive investigative efforts that have exposed the criminality of the scheme and the Defendants' roles in the scheme.

On September 19, 2014, non-party Robert McClellan (“**R. McClellan**”) filed a Motion for Relief from Injunction (the “**First Bankruptcy Motion**”) seeking relief from the Order Appointing Receiver in order to file a bankruptcy petition on behalf of Receivership Entities. After the filing of the motion, correspondence purportedly authored by R. McClellan (the “**Letter**”) was sent to scheme victims enclosing the First Bankruptcy Motion and making multiple false and misleading representations in requesting that each investor sign and return a statement attesting to their support of the Motion. For example, the Letter stated, in relevant part:

“The granting of an involuntary bankruptcy petition will remove the Receiver, lift the injunction, and allow the matter to be transferred to

Federal Bankruptcy Court. Pending approval by and under the auspice of the Bankruptcy Court, TriMed will reorganize under the new management of William Parkhurst (see enclosed bio). This will allow the company to operate in such a manner as to maximize the return to the Investors; contrary to the current actions of the Receiver.

...

As the TriMed Interest Account is fully funded, this will enable TriMed to immediately bring all interest payments current.

Mr. McClellan's counsel had not seen nor authorized the Letter. The Receiver noticed Mr. McClellan for deposition to learn the motivations behind the filing of the First Bankruptcy Motion, but Mr. McClellan failed to appear for his deposition. The Court addressed Mr. McClellan's motion at a hearing on October 23, 2014, and the motion was ultimately denied.

On November 26, 2014, non-party investors in the investment scheme underlying this case, Marvin Hunt, Joseph Wappman, Susan Wood, Doris Hernandez, William Hamilton, and Nancy Isaac (the "**6 Investors**"), filed a Motion of Unaffiliated Creditors for Partial Relief From Injunction Orders (the "**Second Bankruptcy Motion**"), again seeking authority to file voluntary and/or involuntary bankruptcy petitions on behalf of the Receivership Entities. Through the deposition of former Tri-Med sales agent A.J. Brent ("**Brent**"), the Receiver learned that (a) the law firm representing the 6 Investors primarily communicated with those investors through Brent; (b) Brent communicated weekly with Defendant Jeremy Anderson, with whom he discussed efforts to place Tri-Med into bankruptcy; and (c) Defendant Anderson had solicited Brent and other former Tri-Med sales agents to contribute to the legal costs incurred in filing the Second Bankruptcy Motion. Counsel for the 6 Investors also instructed Brent not to respond to questions seeking the extent of his communications with the 6 Investors. In short, it is clear that Defendant Anderson and possibly others are behind efforts to place Tri-Med into bankruptcy.

As demonstrated in the Letter purportedly authored by Mr. McClellan to scheme victims, the Receiver believes that Defendants are attempting to convince investors to support the

bankruptcy efforts through the dissemination of misrepresentations and/or omissions of material facts about the benefits of a bankruptcy forum – including the unsubstantiated fact that somehow bankruptcy will rehabilitate a company that committed numerous violations of securities laws and that investors will be paid both their outstanding principal and interest despite clear evidence that Defendants misappropriated millions of dollars of investors' funds.

The Receiver also believes that Defendants are pushing efforts to place Tri-Med into bankruptcy due to the aggressive investigations being conducted by the Receiver and OFR that are demonstrating the breadth of the fraud committed by Defendants. Indeed, each of the Defendants has been notified by the Department of Justice that they are the subject of an ongoing criminal investigation with respect to their conduct as officers of Receivership Entities. Defendant Anderson is surely particularly sensitive to this criminal investigation as he is a fugitive because he has an active warrant for his arrest for charges against him of grand theft in December of 2010. The Receiver has also been forced to defend efforts by Defendant Anderson to un-freeze bank accounts in Minnesota containing investor funds. In short, aggressive investigative efforts by the Receiver and OFR into Defendants' conduct also likely plays a factor in Defendants' motivations to switch forums to bankruptcy.

Contrary to Defendants' unsubstantiated and false claims, bankruptcy proceedings are governed by complex statutes and procedures that result in significant administrative and other expenses that make them far more expensive than Receiverships. For example, additional significant costs of a bankruptcy would include costs for a trustee and trustee's counsel and for various creditor committees and their counsel. As a result, far more assets recovered by the Receiver would be spent in bankruptcy than in this receivership. The Receiver has made extensive efforts since his appointment, including securing over \$5 million in assets; reaching

favorable agreements with third parties to manage and collect on receivership assets; initiating a claims process through which the Receiver ultimately will be able to distribute funds to defrauded investors with approved claims; and, as discussed above, investigating potential causes of action against individuals and entities who may have liability to the Receivership estate, and he has begun to initiate actions against such individuals and entities. By placing Tri-Med into bankruptcy, many of these efforts would have to be duplicated and the costs to investors would unnecessarily and significantly increase, and all of them would be delayed and some could be significantly harmed by the delay. Further, because it likely would take significant time for a trustee to get up to speed on all of the foregoing and accomplish everything required by bankruptcy procedure to initiate a claims process, distributions to defrauded investors likely would be significantly delayed as well.

4. Created Cost-Effective Mechanism To Negotiate and Collect on Outstanding Accounts Receivable.

Although Defendants operated a fraudulent investment scheme, they appeared to have used approximately \$4 million of the approximately \$17 million raised from investors to actually buy medical accounts receivable. The Receivership Entities kept very poor and incomplete records of the accounts receivables. As a result of this, the Receiver's efforts to identify all receivables purchased by the Receivership has been a time-intensive process involving forensic accountants and extensive communications with medical providers and attorneys for patients. Because of the close relationship between the Defendants and certain medical providers, there is substantial concern as to the validity of a number of receivables purportedly purchased by Tri-Med, and the Receiver's investigation to date indicates that there may be problems with a significant amount of the receivables that were purchased. For example, some of the LOPs are bogus and simply were fabricated to attempt to hide the diversion of investor funds and others

were double sold by the medical provider so that both Tri-Med and other parties claim competing ownership of those receivables. Further, some LOPs contain language barring their assignment.

Since the Receiver's appointment, his team has been handling the negotiation and collection of LOPs while also thoroughly investigating the amount of the Receivership Entities' LOPs. The Receiver has recovered the total amount of \$752,089.25 in payment of accounts receivable since his appointment through February 11, 2015. While the fact that Tri-Med is in receivership has given the Receiver's team significant leverage to negotiate favorable resolutions of LOPs – often recovering 100% of an LOP's face value despite industry averages that are significantly below that sum – such efforts require significant time and effort. To find the most cost-effective way of resolving the LOPs while maximizing the benefit to the Receivership estate, the Receiver explored entering into an arrangement with a third party to handle the administration, negotiation, and collection of LOPs currently owned by the Receivership Entities.² As a result of this search, the Receiver entered into an agreement with Thomas Carey, J.D., LL.M., P.A. (“**Mr. Carey**”). Mr. Carey is an attorney who is highly qualified and experienced in handling the negotiation of LOPs. He is a personal injury lawyer who has handled more than 50,000 personal injury cases and also has been a principal in several companies focused on the business of purchasing receivables from medical service providers. Mr. Carey's significant experience with personal injury litigation and LOPs has allowed him to

² Before this Receivership, Tri-Med spent approximately \$2.37 million of the approximately \$4 million used to buy LOPs to buy LOPs from Florida Surgery Consultants, LLC (“**FSC**”) and its related entities. The arrangement with FSC provides a guaranteed payout to Tri-Med of either 50% or 55% of an LOP's face value, depending on the medical procedure. The FSC LOPs are excluded from the Receiver's arrangement with Mr. Carey because there is no need to negotiate these LOPs.

become intimately familiar and knowledgeable with the collection and negotiation of LOPs and to develop extensive relationships with personal injury attorneys throughout West Florida.

On February 11, 2015, the Receiver filed a motion to approve the medical accounts receivable collection agreement with Mr. Carey. In pertinent part, the agreement provides that Mr. Carey will act as the Receiver's agent in connection with the negotiation and collection of approximately 2,100 LOPs with a best-case-scenario face value of roughly \$6.5 million.³ Mr. Carey will be compensated in the amount of 5% of the gross settlement amount of each negotiated LOP. This compensation rate was the lowest rate obtained by the Receiver. The Receiver believes that this compensation rate is favorable to the Receivership and adequately factors in the amount of attorney time required for negotiation and collection of LOPs. The agreement contains multiple mechanisms to ensure the highest possible recovery rate for the LOPs. By structuring the compensation agreement on the amount of settled LOPs, Mr. Carey's compensation will be directly tied to the amount he is able to secure through settlement of the LOPs and thus provides an incentive to obtain the highest settlement possible. Further, Mr. Carey is required to obtain written approval from the Receiver to settle any LOP for less than 80% of the corresponding LOP's face value. He is also required to provide the Receiver with monthly written reports detailing his efforts. The Receiver believes that this arrangement with Mr. Carey is in the best interest of the Receivership because it places negotiation and collection

³ As noted above, the accounts receivable are based on a promise to pay a reasonable fee for medical services from any settlement or judgment obtained by a patient in connection with an accident. Once the dispute relating to the accident is resolved, the attorney representing the patient generally tries to negotiate the amount owed. It is common practice for the receivables to be paid at significantly less than face value, if indeed they are ever paid, for a number of reasons. Those reasons include that the amount billed for the procedures conducted by the medical providers is excessive; that some of the procedures conducted were unnecessary; or that the patient did not recover sufficient (if any) money to pay the receivable owed.

of the LOPs in the hands of a highly experienced and successful person at a favorable rate to the Receivership and is structured in such a way as to encourage the highest possible recovery on the LOPs.

5. Secured Contracts For the Sale of Two Real Properties In the Possession of the Receivership

As previously stated, the Receiver's investigation has revealed that investor funds were misappropriated for unauthorized uses, including the purchase of real estate. Specifically, evidence shows that Defendants used investor funds to purchase five parcels of residential real estate. Two of these properties were purchased in the name of TMFL and one property was purchased through a straw buyer who has executed a quitclaim deed to Tri-Med. Below are the addresses and purchase prices of each of the properties:

Address	Purchase Price
4202 Bay Club Circle, Tampa, Florida (" Bay Club Property ")	\$95,000
909 E. Cayuga Street, Tampa, Florida (" Cayuga Property ")	\$89,000
15316 Stonecreek Lane, Tampa, Florida (" Stonecreek Property ")	\$174,500
11029 117th Street, Seminole, Florida (" Seminole Property ")	\$88,500
9035 St. Regis Lane, Port Richey, Florida (" Port Richey Property ")	\$38,000

There do not appear to be any encumbrances on these properties. The Receiver has secured possession of these properties and taken necessary measures to protect the assets, including changing the locks, obtaining property insurance, and making sure the properties are adequately monitored. All of the properties have been listed for sale.

The Receiver has entered into contracts for the sale of two of these properties: the Bay Club Property and the Stonecreek Property for a combined amount of \$295,000. On January 20,

2014, the Receiver entered into a contract for the sale of the Stonecreek Property “as is” for the purchase price of \$170,000. On February 11, 2015, the Receiver entered into a contract for the sale of the Bay Club Property “as is” for the purchase price of \$125,000. Both of these sales are pending inspection and the financing approval by the purchasers. Once inspection and financing have been completed, the Receiver will seek Court approval of the sale of these properties for the amounts identified above. If Tri-Med is placed into bankruptcy, the Receiver will be unable to proceed with these sales and the sales likely will not take place.

6. Formed an Investors Committee.

The Receiver has established an Investors Committee which will consist of a small number of defrauded investors. The Receiver contacted eight investors and invited them to serve on this Committee. All but one of these investors participated in a conference call with the Receiver on February 13, 2015, to discuss this matter. All of these investors, including Mr. McClellan, have agreed to participate in the Investors Committee. Collectively, these investors invested approximately \$2.7 million in this fraudulent investment scheme.⁴ The purpose of the Investors Committee would be to provide the Receiver the ability to confer in an efficient manner with interested investors who can provide views with respect to the actions of the Receivership and provide information to other defrauded investors. The Receiver also has communicated with highly experienced securities attorney Robert Pearce who will represent the interests of the Investors Committee. Mr. Pearce has over 30 years of experience in representing investor victims and previously worked for the United States Securities and Exchange Commission. Mr. Pearce currently represents an individual who invested in the fraudulent

⁴ These amounts include investments made by the investors individually, jointly with a spouse, on behalf of an entity, and as a trustee of a trust.

scheme and is pursuing litigation on behalf of that investor against a Tri-Med sales agent. He may represent other individuals and is available to provide counsel to all victims. He can be reached at (561) 338-0037 and investors can view his website at www.secatty.com. Information about the Investors Committee can be obtained from Mr. Pearce or the Receiver.

CONCLUSION

Creditors and investors in the Receivership Entities are encouraged to periodically check the informational website, www.trimedreceivership.com, for information concerning this Receivership. To minimize expenses, creditors and investors are encouraged to consult the Receiver's website before contacting the Receiver or his counsel. However, the Receiver encourages individuals or attorneys representing investors who may have information that may be helpful in securing further assets for the Receivership estate or identifying other potential parties who may have liability to either the Receivership estate or investors to either email jrizzo@wiandlaw.com, or call Jeffrey Rizzo at (813) 347-5100.

Dated this 17th day of February, 2015.

Respectfully submitted,

s/Burton W. Wiand

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Receiver for Tri-Med Corporation, Tri-Med Associates Inc., and TMFL Holdings, LLC

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on February 17, 2015, 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 parties and non-parties:

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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