

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 17-CV-61937-WPD

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

STUDENT DEBT DOCTOR LLC, a Florida
limited liability company,

and

GARY BRENT WHITE, JR., individually and
as an officer of Defendant Student Debt Doctor LLC,

Defendants.

SEVENTH REPORT OF RECEIVER ROBERT CAREY

Pursuant to Section XII of the Stipulated Preliminary Injunction [DE 24] (the “PI”), Robert Carey, not individually, but solely in his capacity as the Court-appointed receiver (the “Receiver”) for Student Debt Doctor LLC (“SDD”), Fidelity Debt Reserve LLC (“Fidelity Debt”), Fidelity Credit Repair LLC (“Fidelity Credit”), Fidelity Reserve Loans LLC (“Fidelity Reserve”), G White Enterprises LLC (“G White”), and Fidelity Asset Holdings Limited Partnership (“Fidelity Asset Holdings”), submits the following Seventh Report.

A. Introduction

I am continuing to finish the remaining limited receivership tasks, including marketing and selling Mr. White’s property (which has been deeded to me, as Receiver) and attempting to settle one pre-suit matter with a receivership target. I recently moved for an extension of time regarding the receivership’s termination, which the Court recently granted and extended through and including July 1, 2019, for me to sell Mr. White’s property, resolve the pre-suit matter and

conclude any other pending receivership matters [DE 99,100]. Therefore, the bulk of the work in the receivership is, generally speaking, done.

I have accomplished much for the benefit of the Receivership Estate and consumers since my appointment in October 2017. Such accomplishments have been repeatedly discussed in the prior six Reports and will not be re-stated herein. This Seventh Report will solely discuss the limited remaining work in the receivership.

B. Identification of Assets and Accounts

1. Receivership Bank Accounts

There is currently \$1,232,277.54 in total in segregated receivership bank accounts (\$89,112.41¹ (SDD), \$1,082,746.63 (Fidelity Asset Holdings), \$54,216.91 (Fidelity Debt), \$3,838.49 (Fidelity Credit), and \$2,363.10 (Fidelity Reserve)).

Below is a table of the Receivership Estate account balances:

Account	Balance
SDD	\$89,112.41
Fidelity Asset Holdings	\$1,082,746.63
Fidelity Debt	\$54,216.91
Fidelity Credit	\$3,838.49
Fidelity Reserve	\$2,363.10
Grand Total	<u>\$1,232,277.54</u>

2. The Remaining Personal Accounts

i. Mr. White's Personal Bank of America Account

As stated previously, Bank of America froze \$354,808.40 in the name of Mr. White pursuant to the TRO. Because the funds were in Mr. White's name personally, I previously did

¹ This amount has decreased from the Sixth Report in the amount of approximately \$30,000 because of payments of various receivership administrative expenses and property taxes on Mr. White's property.

not demand their turnover. Pursuant to the settlement between Defendants and the FTC, which was memorialized in the November 30, 2018 Stipulated Order for Permanent Injunction and Monetary Judgment (the “Stipulated Order”) [DE 94], namely under Section VI.B.2.a of the Stipulated Order, Bank of America has transferred this amount of \$354,808.40 to the FTC.

ii. Mr. White’s Personal TD Ameritrade Account

Shortly after filing my First Report, I learned that TD Ameritrade had \$50,000.00 in an account in Mr. White’s name, which has been frozen pursuant to the PI. Like the Bank of America personal funds, because the funds at TD Ameritrade were in Mr. White’s name personally, I previously did not demand their turnover. Like the personal funds in the Bank of America account discussed above, pursuant to Section VI.B.2.b of the Stipulated Order, TD Ameritrade has transferred this amount of \$50,000.00 to the FTC.

iii. Mr. White’s Personal PayPal Account

Shortly after filing my First Report, I learned that PayPal had \$2,085.00 in an account in Mr. White’s name, which has also been frozen pursuant to the PI.² Like the personal funds in the Bank of America and TD Ameritrade accounts discussed above, pursuant to Section VI.B.2.c of the Stipulated Order, PayPal has transferred this amount of \$2,085.00 to the FTC.

3. Mr. White’s Pompano Beach Townhome/Condominium

During my initial interview of Mr. White, I discovered that Mr. White owned a townhome/condominium in Pompano Beach located at 140 SE 4th Terrace, Pompano Beach, FL 33060 (the “Property”). Mr. White purchased the Property in 2016 in the amount of \$737,651.00

² In addition, a PayPal account with an associated SDD username in the name of Mr. White’s sister, Christy Tripp, has been frozen in the amount of \$782.53. Given the Stipulated Order, the FTC and I have no objection to releasing this account, and the minimal funds within, back to Ms. Tripp.

with funds derived from SDD and/or its related entities and which subsequently had two mortgages fully satisfied by Mr. White with funds derived from SDD and/or its related entities.

Because the Property is free and clear of mortgages, and was purchased with funds derived from SDD and/or its related entities, I promptly filed and recorded a Notice of Lis Pendens [DE 26] to ensure the Property was not sold, mortgaged or otherwise transferred or encumbered post-receivership and pending further Order of this Court.

Like the personal accounts at Bank of America, TD Ameritrade and PayPal, the disposition of the Property was determined under Section VI.B.3 of the Stipulated Order, which required Mr. White to, among other things, (i) deed the property to me to sell for the benefit of the Receivership Estate; (ii) and pay all expenses associated with the property prior to deeding the property to me. The Stipulated Order required Mr. White to deed the property within 14 days, but the FTC and I provided Mr. White an extension of time as a professional courtesy.

Mr. White has deeded the Property to me via Quit Claim Deed. I have been aggressively marketing the Property for sale. I initially listed the Property for sale for \$595,000, as the value of the Property had diminished since Mr. White's purchase. I obtained three appraisal reports from three disinterested appraisers to assist me in determining the initial list price of \$595,000. To garner further interest in the Property, I have reduced the list price twice; currently, the list price is \$555,000. I have and will continue to maintain the Property, including insuring the Property and refurbishing normal "wear and tear" items to maximize the opportunity for an efficient and quick sale.

To assist me in marketing and ultimately selling the Property, I have engaged Mr. Matthew Ferency, a broker and realtor employed by Illustrated Properties ("IPRE"), to list and market the

Property for sale.³ IPRE, a member of the Keyes Family of Companies, is the leader in the real estate industry here in South Florida. IPRE has been in operation for almost 100 years and is a shareholder in Leading Real Estate Companies of the World® - a global network of more than 550 premier real estate firms encompassing 4,000 offices and over 128,000 sales associates in 55+ countries around the world, of which Keyes is a Founding Member and Shareholder.

Mr. Ferency has been an agent with IPRE since 2003 and has been a Top Producing agent every year during that period. Mr. Ferency has represented dozens of buyers and sellers of homes in the South Florida area, including real property in other receiverships. I have negotiated, and Mr. Ferency agreed to, a reduced seller's sales commission of 2.5% as opposed to the industry standard of 3.0% for either buyer or seller. Mr. Ferency continues to aggressively market the Property, including advertising the Property on numerous online websites, including, but not limited to: Realtor.com; Homeaway.com; Homesandland.com; Zillow.com; Redfin.com; and Trulia.com.

There are currently a couple of interested buyers, who may submit offers in the next week. Promptly upon the execution of a purchase contract, I intend to file a motion to approve the sale of the Property pursuant to 28 U.S.C. §§ 2001 and 2002, the relevant federal statutes governing private sales of real property by a federal receiver.⁴ Therefore, and assuming a potential buyer

³ I have worked with Mr. Ferency in several other federal receiverships in which Mr. Ferency was the receiver's realtor and sold several receivership properties. Therefore, Mr. Ferency is very familiar with, and thus highly-qualified in explaining to potential buyers, the relevant federal statutes and overall procedure governing the sale of receivership property.

⁴ 28 U.S.C. §§ 2001(b) and 2002 allow a receiver to privately sell real property after a statutory-required hearing as long as:

- (a) the sale is for at least two-thirds of the appraised value of the property;
- (b) the appraised value of the property was established by three disinterested persons appointed by the Court to appraise the property;

signs a purchase contract, I anticipate filing the motion to approve at or around the time of the buyer's approval for financing (*i.e.*, estimated within 30 days of signing).

Pursuant to 28 U.S.C. §§ 2001 and 2002, I also intend to request in the motion to approve a brief confirmation hearing to formally approve the sale of the Property, which obviously would occur on a date to-be-determined in the future based on the Court's schedule. The closing of the Property would likely occur within 10 days of the Order approving the sale following the confirmation hearing. Therefore, based on the above, and assuming a potential buyer signs a purchase contact this month, I anticipate a closing of the Property in June or July 2019.

C. Pursuit of Receivership Assets from Third Parties

In addition to selling the Property, I am currently in settlement talks with one receivership target, which I contend received significant fraudulent transfers from certain Receivership Entities. I have served a pre-suit settlement demand and have secured a tolling agreement and several amendments.

The target's settlement response is now anticipated on or before May 20, 2019. I thereafter anticipate additional written and verbal discussions over a couple-week period before potentially settling the matter pre-suit. If there is a settlement, I will file a motion to approve such settlement.

(c) the Court finds that the sale serves the best interests of the receivership estate; and

(d) the terms of the proposed private sale are published in a newspaper of general circulation once a week for four (4) weeks.

Notwithstanding satisfaction of the foregoing requirements, and pursuant to 28 U.S.C. § 2001(b), the Court cannot approve the proposed sale to the buyer if a separate, bona fide offer to purchase the property for at least 10% more than the buyer's proposed, published price is received in writing.

D. Receivership Records and ESI

As reported previously, I did not liquidate any of SDD's previously used computers, servers, or hard drives in the prior-authorized auction if they contain ESI. Also, I did not liquidate any of SDD's proprietary, intellectual property assets or domain names.

As of the receivership's commencement, and putting aside professional fees and expenses, the receivership has continued to incur administrative expenses, including, but not limited to, storage at a secure location for hard copy files and computer equipment that must continue to be preserved and storage for the voluminous ESI that must continue to be preserved.

I anticipate filing a motion to address these issues in the near future, including the destruction of certain hard copy files and transfer of ESI and other requested records to the FTC. Such will eliminate the continued administrative expenses for storing hard copy files, computer equipment and ESI.

E. Potential Consumer Redress Process

If the FTC ultimately decides to go forward with a consumer redress process in the future, I am in the process of preserving the necessary consumer information in a format that is easily accessible to the FTC.⁵ Because there were approximately 30,000 victims of the various services marketed by SDD and other Receivership Entities, I intend to provide the FTC with a breakdown of each consumer's net losses, contact information, and which entity processed the transactions.

⁵ The images/snapshots of the Receivership Entities' custom databases or Consumer Relationship Managers ("CRMs") were preserved in their original SQL format. These SQL databases are extremely large (*e.g.*, 1.2 terabytes compressed) and unwieldy since they contain a voluminous number of tables encompassing virtually every communication between the individual consumers (*i.e.*, emails, voicemails, facsimiles and the like), and need to be "mounted" prior to writing computer code (*i.e.*, Query) to access the information contained regarding consumer information. Thus, it made sense to request assistance from the original programmer of the various databases to extract the information which will be required if and when the FTC determines it makes economic sense to go forward with a redress process.

F. Tax Work

As stated previously, and in order to assist me in marshaling the Receivership Entities' assets for the benefit of the Receivership Estate, as well as performing necessary tax work, I retained the forensic accounting firm of KapilaMukamal ("KM"). KM identified and assisted in obtaining, requesting, and reconstructing financial records such as bank records, credit card statements, payroll records, merchant account records, bookkeeping records, tax records, and other professional services records.

As stated previously, the bank/cash and credit card reconstruction process are complete. The reconstructions have aided in not only quantifying the amount of consumer funds/revenues and ultimate disposition, but it was also an integral tool for me to identify potential assets and targets of ancillary receivership demands and lawsuits for the benefit of the Receivership Estate.

KM will continue to perform the necessary tax filings for the Receivership Entities for prior tax years, including 2018, and future tax years. KM prepared forms 1099-MISC, 1096 and 56, and prepared extensions for 2018 for the Receivership Entities.

G. Any Other Matters Which I Believe Should Be Brought to the Court's Attention

As stated above, the receivership's new deadline is July 1, 2019. I will work efficiently toward fulfilling my final remaining duties as Receiver, including selling the Property (pursuant to a motion to approve such sale) and attempting to settle with one third-party that received fraudulent transfers derived from the Receivership Entities. I will supplement this Seventh Report with my Eighth Report on or before the Receivership deadline of July 1, 2019, or if there is an extension of time, 90 days from now (*i.e.*, on or about July 16, 2019).⁶

⁶ I hope that a second extension of the receivership deadline will not be necessary.



Robert Carey, not individually,
but solely in my capacity as Receiver

Dated: April 16, 2019