

I.
Background Facts
背景事實

1. On November 17, 2006 the Securities and Exchange Commission (“SEC”) filed its Complaint against the Defendants and Relief Defendants. By Order dated November 30, 2006, the Receiver was appointed on a final basis. Since that time the Receiver has administered the assets and has conducted the affairs of the receivership estate.

2006年11月17日，美國證券交易委員會（以下簡稱“SEC”）針對被告以及名義上的被告提起訴訟。2006年11月30日的一份判決任命接管人處理此案。接受任命後，接管人對接管人資產進行了管理，並處理了相關事宜。

2. At the time of his appointment, Defendant ABC Viaticals, Inc. maintained offices in Houston, Texas. Most of the investors were located in Taiwan and Puerto Rico. Many of the actual assets of the receivership estate were located throughout the United States. The Receiver’s efforts to locate and liquidate those assets are well known to the Court and are generally described below.

在接管人的任職期間，被告 ABC Viaticals, Inc.的辦公室地址位於德克薩斯州休斯敦市。大多數的投資人位於臺灣和波多黎各。許多接管人資產的實際資產位於美國國內各地。法院了解接管人為確定並清算這些資產而採取的行動，其具體內容如下所述。

II.
Receivership Assets

接管人資產

From November 17, 2006, to August 31, 2014, the receivership estate has collected \$67,356,433.11 in receipts and paid \$58,218,251.52 in disbursements including a \$15,000,000.00 interim distribution to investors. A detailed schedule of those receipts and

disbursements is attached as Exhibit 1. As explained more fully below, the Receiver has sold the assets of the estate having any substantial net value and all litigation either by or against the receivership estate has finally been resolved. Accordingly, the case is ready to be closed. As of September 1, 2014, the receivership estate has \$9,138,181.69 in liquid assets and has a \$414,560.01 outstanding liability for pending holdbacks of professional fees. Attached hereto as Exhibit 2 is a schedule of the current estate assets.

2006年11月17日至2014年8月31日期間，接管人資產累計收回67,356,433.11美元，共分配了58,218,251.52美元（其中包括15,000,000.00美元的中期分配）。這些收回與分配金額的具體內容列於示證 1。下面將會詳細說明，接管人出售了接管人手中所有有實際價值的資產，而且所有針對接管人資產的、或由接管人提起的訴訟已經了結。因此，本案可以最終結案。截至2014年9月1日，接管人資產共有9,138,181.69美元的流動資產，而且還有尚未支付的414,560.01美元的專業人士的費用。示證2是現在接管人資產情況的列表。

A. ABC's Life Insurance Policies

ABC 的人壽保險保單

Before going into receivership, ABC Viaticals, Inc. (“ABC”) acquired life insurance policies on elderly insureds and sold fractional interests in those policies to investors. It described the investment as a “bonded” life settlement policy, meaning each insurance policy was supposed to have a bond that would pay the policy’s face value if the insured lived beyond a certain date.

在其資產被接管之前，ABC Viaticals, Inc. (以下簡稱“ABC”)購買了許多被保險人為年長者的人壽保險，並且將這些保險的部分權益賣給了投資人。ABC將此投資描述成

“有債券擔保的”人壽保險，意思是如果被保險人壽命超過特點日期，將有債券支付該保險的表面價格。

Following his appointment, the Receiver took possession of 55 life insurance policies owned by ABC and related entities. Those policies had a combined death benefit of \$236 million and annual premium obligations exceeding \$10 million a year. Although ABC's marketing materials represented sufficient premium reserves existed, the premium escrow account only contained \$280,146.14 when the Receiver was appointed.

接管人在其上任後將這 55 項曾由 ABC 及其關聯實體持有的人壽保險轉入名下。這些保險的死亡撫恤金的總金額為 2.36 億美元，而且每年的保險費超過 1000 萬美元。儘管 ABC 的營銷資料證明有足夠的保險金儲備，在接管人被任命之時，該公司的保險費委托賬戶中僅有 280,146.14 美元。

Without enough cash to pay premiums, the Receiver secured a \$20 million line of credit from Sovereign Bank. The line of credit allowed him to keep paying premiums on all the policies, which he had to do in order to collect death benefits in the event any of the policies matured.¹ The Receiver also hired National Viatical, Inc. to reduce the periodic premiums as much as possible, oversee timely payment of those premiums, and monitor the policies for maturities.

由於沒有足夠的現金支付保險費用，接管人向 Sovereign Bank 申請獲得了 2000 萬美元的信貸額度。該信貸額度使其能夠支付所有保險的保險費，而接管人必須繼續支付保險，以保證在有保險到期時可以獲得死亡撫恤金。接管人還聘請了 National Viatical, Inc.

¹ A life insurance policy “matures” when the insured dies and the insurance provider pays the death benefit to the Receiver.

註 1：人壽保險在被保險人死亡時到期，保險人向接管人支付死亡撫恤金。

以便盡可能地降低定期繳納的保險費、管理這些保險費用的及時支付、並且監督這些保險的到期情況。

Unfortunately during the next two years none of the 55 policies matured. As a result, the Receiver drew nearly \$17 million on his line of credit without generating any income from the policies. Instead of continuing to borrow money, he filed a motion to sell the policies. (Motion to Sell All Insurance Policies [Doc. No. 146].) Following a two-day evidentiary hearing and court-supervised auction, this Court authorized Settlement Group, Inc. to buy the policies for \$33.5 million and to reimburse the Receiver for \$2.6 million in premiums he paid between July 1, 2008, and the time of the auction. (Order [Doc. No. 179].) After paying back the bank's line of credit and a break-up fee to a previous bidder, the Receiver recovered approximately \$18 million in net proceeds from the sale of ABC's life insurance policies.

在接下來的兩年內，55 份保險沒有任何一份到期。接管人已經從其信貸額度中劃出了 1700 萬美元，而沒有獲得任何收入。接管人向法院提交動議申請出售這些保險（出售所有保險的動議[文件號 146]），而不是繼續借錢。經過兩天的聽證會以及法院監督的拍賣，法院允許 Settlement Group, Inc. 以 3350 萬美元的價格購買這些保險，並且 Settlement Group, Inc. 將向接管人返還其在 2008 年 7 月 1 日與拍賣會之間所支付的 260 萬美元的保險費（法院判決[文件號 179]）。在支付完銀行的信用額度、以及需要支付給此前另一個競拍人的分手費後，接管人從 ABC 人壽保險的出售中獲得了約 1800 萬美元的淨收入。

B. ABC's Bank Accounts

ABC 的銀行賬戶

Immediately after he was appointed, the Receiver closed ABC's bank accounts and placed the following funds in interest bearing accounts under his control:

在其被法院任命後，接管人註銷了 ABC 的所有銀行賬戶，並且將以下資金存入到由其控制的計息賬戶：

<u>Account Name</u> 賬戶名稱	<u>Acct. No.</u> 賬戶號碼	<u>Amount</u> 金額
Erwin & Johnson - ABC Escrow Account (BOA)	xxx-xxx-5331	3,986,694.37
ABC Viaticals, Inc. (BOA)	xxxx-xxxx-1180	33,850.38
ABC Viaticals, Inc. (Banco Popular)	xxxxx0295	10,055.57
Erwin & Johnson - ABC Management Account (BOA)	xxxx-xxxx-5292	63,519.05
Erwin & Johnson - ABC Premium Escrow (BOA)	xxxx-xxxx-5328	280,146.14
Erwin & Johnson - ABC Maturity Account (BOA)	xxxx-xxxx-5344	13,724.83
LaMonda Management FLP (BOA)	xxxx-xxxx-9364	89,438.17
Erwin & Johnson – SLS Escrow Account (BOA)	xxxx-xxxx-6696	343,734.90
Structured Life Settlement (BOA)	xxxx-xxxx-9781	82,452.66
	Total:	4,903,616.07

C. LaMonda's Assets

LaMonda 的資產

1. Home In Kissimmee, Florida

位於佛羅裏達州 Kissimmee 的房產

LaMonda diverted over \$1,425,000 from ABC to make repairs and improvements to his personal home in Kissimmee, Florida. The Receiver entered into a Settlement Agreement with LaMonda that imposed an equitable lien upon the property in that amount. (Settlement Agreement [Doc. 71-2].) Aside from the Receiver's lien, that property was already subject to three mortgages and a restitution lien in favor of the U.S. government stemming from LaMonda's criminal prosecution in Florida.

LaMonda 從 ABC 轉出 1,425,000 美元對其位於佛羅裏達州 Kissimmee 的私人住宅進行修復及裝修。接管人與 LaMonda 達成和解協議（和解協議[文件號 71-2]），在該房產上增加了等同於上述金額的質押權。除接管人的質押權外，該房產還有三項房貸、以及一項由美國政府因為 LaMonda 在佛羅裏達州的刑事審判而產生的賠償質押權。

When the Receiver negotiated the Settlement Agreement he believed the house was worth approximately \$2 million. However, the general state of the economy and the poor condition of the property ultimately proved that belief to be wrong. Based upon the assumption of all parties that the house was worth \$2 million, the Receiver worked out an agreement among the mortgage holders where he would maintain the property, sell it, pay off the mortgages, and realize a modest return to split with the U.S. government authorities from LaMonda's criminal case.

在接管人就和解協議進行談判時，接管人認為該房產的價值約為 200 萬美元。但是，當前經濟的大環境以及該房產較差的狀況最終證明 200 萬美元的估價是錯誤的。基於協議各方對該房產價值為 200 萬美元的假設，接管人與房貸債權人達成協議，接管人將保留並出售該房產、支付房貸，並且將得到的少量盈餘與涉及 LaMonda 刑事案件的美國政府機構進行分配。

For about a year the Receiver listed the property for sale at \$1.5 million and received no offers. Eventually, the Receiver located a buyer willing to pay \$1 million and he accepted that offer. LaMonda, however, refused to sign the deed or cooperate with that sale because he was trying to extort 25% of the Receiver's recovery from the Goldenberg life insurance policy.² The Receiver, therefore, had no choice but to file a lawsuit in Osceola County, Florida, to foreclose

² The Goldenberg life insurance policy is discussed more fully below at Section I(D).
註 2: Goldenberg 人壽保險將在下面第 I(D) 章節做詳細描述。

his \$1,425,000 lien so he could gain legal title to the property and remove LaMonda from the sale process. He prevailed in that action and LaMonda then appealed to the Florida Fifth District Court of Appeals which denied his appeal. Ultimately, the Receiver was able to foreclose his lien and the property was sold to a third party buyer. After payment of the underlying mortgage and recouping the funds expended by the Receiver in marketing the property, the Receiver recovered \$74,702.75 of net proceeds for the estate.

接管人將該房產以 150 萬美元的價格投入市場出售，在大約一年的時間內沒有收到任何報價。最終，接管人找到了一個願意出價 100 萬美元的買家，接管人同意出售。但是，LaMonda 拒絕簽字，並拒絕配合該房產的出售，因為 LaMonda 想要獲得接管人從 Goldenberg 人壽保險中獲得金額的 25%。因此，接管人不得不向佛羅裏達州 Osceola 郡的法院提起訴訟以止贖 LaMonda 1,425,000 美元的質押權，這樣接管人可獲得該房產的所有權，並將 LaMonda 排除在出售該房產的過程之外。接管人在一審中勝訴，LaMonda 向佛羅裏達州第五區上訴法院提起上訴，該上訴被法院駁回。最終，接管人成功止贖該質押權，並且將該房產賣給了第三方買家。在支付完房貸並且收回接管人在銷售該房產時花費的金額後，接管人獲得了 74,702.75 美元的淨收益。

2. Condominium In Fort Lauderdale, Florida

位於佛羅裏達州 Fort Lauderdale 的公寓

The Receiver also took possession of LaMonda's condominium in Fort Lauderdale, Florida. It is in a building with other units listed for sale but not selling at any price due to the current real estate market. The Receiver, therefore, has allowed LaMonda's former wife to continue living in the condominium so long as she pays the maintenance costs and real estate taxes. Over the years, LaMonda's former wife has expended in excess of \$250,000 in paying

taxes, utilities and other maintenance charges. Given that the condominium market in Florida is still very depressed and the great number of condos for sale, the Receiver does not believe there is any net value to the estate with respect to this asset, and certainly not enough to justify keeping the estate open in the hope that one day the market will improve. Accordingly, the Receiver proposes that he abandon this asset and convey title to LaMonda's former wife.

接管人還接管了 LaMonda 位於佛羅裏達州 Fort Lauderdale 的公寓。該公寓所在的公寓樓有多家公寓待售，但是由於房產市場低迷，這些公寓均沒有售出。因此，接管人允許 LaMonda 的前妻繼續住在公寓中，前提是其保證支付房屋維護費用以及房地產稅。LaMonda 的前妻共支付了超過 25 萬美元的稅、水電費以及其他維修費用。由於佛羅裏達州公寓市場仍非常低迷，而且市場中有大量公寓待售，接管人不認為這項資產能產生任何淨收益，而且不值得繼續維持該房產以期某天市場會有所好轉。因此，接管人建議放棄此資產並且將房產所有權轉給 LaMonda 的前妻。

3. Other Assets Seized From LaMonda

從 LaMonda 處收繳的其他資產

Pursuant to the Settlement Agreement, the Receiver also took possession of two houses located in Missouri and Georgia and eight vehicles. As detailed in Exhibit 1, those assets were sold according to orders of this Court for a total of \$373,700.00. (Orders [Doc. Nos. 79, 80, 84, 88, 92, 99, 103, 106, 112, and 113].)

根據和解協議，接管人接管了兩棟分別位於密蘇裏州、喬治亞州的房產，以及 8 輛汽車。具體內容見示證 1，依據法院判決，這些資產全部被售出，獲得總金額 373,700.00 美元。（判決[文件號 79, 80, 84, 88, 92, 99, 103, 106, 112, 113]）

D. Recovery From David Goldenberg's Life Insurance

從 David Goldenberg 的人壽保險中獲得的金額

Before going into receivership, ABC purchased numerous bonds from a company called International Fidelity & Surety, Ltd. (“IFS”). Immediately after his appointment, the Receiver interviewed a former officer of IFS and obtained extensive bank records exposing the company as a sham run by the two individuals who sold IFS bonds in the United States—David Goldenberg and Mark Wolok. On March 6, 2007, the Receiver filed a lawsuit against IFS, Goldenberg, and Wolok for breach of contract and fraud.

在接管人接手前，ABC 從一家叫做 International Fidelity & Surety, Ltd. (以下簡稱“IFS”)的公司購買了許多債券。在接管人被任命後，接管人立刻與 IFS 的一位前任公司高管進行會談，並且獲得了大量的銀行記錄，能夠披露該公司是一個由 David Goldenberg 與 Mark Wolok 兩人經營的、在美國出售 IFS 債券的騙子公司。2007 年 3 月 6 日，接管人針對 IFS、Goldenberg 以及 Wolock 的違約與欺詐行為提起訴訟。

During the course of that litigation, Goldenberg committed suicide. Working with criminal authorities in California, the Receiver discovered that Goldenberg left behind a life insurance policy payable to one of his companies. After extensive negotiations with the Goldenberg family, the Receiver managed to recover the full \$3,127,412.48 death benefit from that policy on behalf of the receivership estate.

在該訴訟過程中，Goldenberg 自殺身亡。通過與加利福尼亞州刑事機關的合作，接管人發現了 Goldenberg 購買過一份人壽保險，受益人是其手下的一間公司。經與 Goldenberg 家人的多次談判後，接管人得到了 3,127,412.48 美元的全額死亡撫恤金，並將其納入接管人財產。

LaMonda later claimed he should be entitled to 25% of that amount based upon “assistance” he supposedly provided. This Court denied LaMonda’s first motion seeking a 25% payment from the Goldenberg life insurance policy. (Order [Doc. No. 282].) That decision was appealed to the Fifth Circuit Court of Appeals and denied. LaMonda then filed a separate complaint asking for declaratory judgment that the Receiver must pay LaMonda for “assistance” he supposedly provided in recovering “\$3.2 million from various assets and lawsuits.” (Compl. [Doc. No. 1] at 13-14, No. 3:10-CV-1190-P-BH.) After an evidentiary hearing, that Complaint was denied and LaMonda appealed to the Fifth Circuit where it was also denied.

LaMonda 日後聲稱，鑒於其提供了相關“協助”，其有權獲得該金額的 25%。法院駁回了 LaMonda 申請得 Goldenberg 人壽保險金額 25% 的第一次動議（判決[文件號 282]）。LaMonda 向第五巡回上訴法院進行上訴，該上訴也被駁回。LaMonda 之後提交單獨的訴求，聲稱由於其為接管人追回“320 萬美元”提供了“幫助”，接管人須支付給其一定金額（訴狀[文件號 1] 13-14, No. 3:10-CV-1190-P-BH）。聽證會後，該訴求被駁回，LaMonda 向第五巡回上訴法院上訴，該上訴再次被駁回。

E. Litigation Recoveries by the Estate

通過訴訟獲得的金額

In additional to the primarily defensive litigation described above, the Receiver asserted litigation against DMH Stallard/Chris Stenning and Erwin & Johnson/Chris Erwin. After lengthy mediation those cases were settled for an aggregate amount of \$3,554,780.00 to the estate.

除上述訴訟外，接管人還針對 DMH Stallard/Chris Stenning、以及 Erwin & Johnson/Chris Erwin 提起訴訟。經過漫長的調解，這些案件最終以接管人獲得 3,554,780.00 美元得到和解。

III. Receivership Expenses

接管人的花費

A. Expenses to Monitor/Manage the Assets

監督/管理資產的花費

The vast majority of the expenses spent by the Receiver related to maintaining the portfolio of 55 life insurance policies. From November 17, 2006, to October 31, 2010, the Receiver paid the following amounts in connection with those policies:

接管人大部分的花費主要與管理 55 份人壽保險相關。從 2006 年 11 月 17 日至 2010 年 10 月 30 日，接管人針對這些保險支付了以下金額：

<u>Description</u> 描述	<u>Amount</u> 金額
Management of policies by NVI 由 NVI 管理保險的費用	78,807.75
Premiums to insurance companies 支付給保險公司的保險費	16,620,561.58
Interest and loan fees to the bank 支付給銀行的貸款費用及利息	1,076,307.27
Portfolio Valuation/Actuarial 保險組合評估 / 精算	31,851.25
Break-up fee to the original highest bidder 支付給最初出價最高的競拍人的分手費	1,000,000.00
Total:	18,807,527.85

In the aggregate these fees total approximately 28% of the amounts collected and administered by the Receiver.

這些費用總共約占接管人收回與管理的總金額的 28%。

B. Professional Fees

專業人員的費用

From November 17, 2006, to August 31, 2014, the Receiver has paid \$6,310,093.70 to retained professionals and other professionals authorized to be paid by the Court. A detailed schedule of those fees is set forth in Exhibit 1. In the aggregate these professional fees total approximately 9% of the amounts collected and administered by the Receiver. Below is a summary of the work done by each of the primary firms and the professional fees paid to them.

從 2006 年 11 月 17 日至 2014 年 8 月 31 日，接管人共向其聘用的專業人員及法院批准支付的其他專業人員支付了 6,310,093.70 美元。具體支付的費用金額在示證 1 中列出。所有專業人員的費用總共約占接管人收回與管理的總金額的 9%。以下是各個主要公司與專業人員的工作總結以及支付的專業人員費用。

1. QSLWM

Quilling Selander Lownds Winslett & Moser, P.C. (“QSLWM”) is a law firm in Dallas, Texas, that employs the Receiver and his attorneys, paralegals, legal assistants, and claim analysts who have handled the numerous complex issues involved in this case.³

Quilling Selander Lownds Winslett & Moser, P.C. (以下簡稱“QSLWM”)是一家位於德克薩斯州達拉斯市的律所，該律所聘用了接管人及其律師、律師助理、律師秘書以及處理本文中多項複雜問題的訴求分析人員。

Among many other things, the attorneys and staff at QSLWM provided assistance to the Receiver by: (a) identifying and taking control of assets from ABC and LaMonda, including real

³ Quilling Selander Lownds Winslett & Moser, P.C. was formerly known as Quilling Selander Cummysky & Lownds, P.C.

註 3: Quilling Selander Lownds Winslett & Moser, P.C. 的前身為 Quilling Selander Cummysky & Lownds, P.C.

estate, vehicles, and the portfolio of 55 life insurance policies; (b) overseeing the management and sale of real estate and other property seized from LaMonda; (c) overseeing management of the 55 life insurance policies and making the critical decisions relating to each of those policies; (d) conducting due diligence and gathering the records necessary to sell the policies to potential bidders; (e) marketing the life insurance policies for sale; (f) overseeing the procedures that resulted in an initial stalking-horse bidder; (g) conducting the two-day evidentiary hearing that resulted in the final bid and sale of the life insurance policies; (h) acquiring the bank records that showed how ABC and LaMonda spent investor money; (i) investigating IFS, Goldenberg, Wolok and determining the Receiver's claims against them; (j) investigating Chris Erwin and E&J and determining the Receiver's claims against them; (k) investigating DMHS and Stenning and determining the Receiver's claims against them; (l) investigating Jason Sun and determining the Receiver's claims against him; (m) meeting with numerous investors and investor representatives located in the U.S., Puerto Rico, and Taiwan; (n) developing the claims process and handling the communications and investigation needed to recommend approval or disapproval of nearly 4,000 claims and (o) defending against the incessant bogus claims asserted by LaMonda against the receivership estate.

QSLWM 的律師及其工作人員在以下方面為接管人提供了協助：(a) 找出並控制 ABC 及 LaMonda 的資產，包括房地產、汽車以及 55 份人壽保險；(b) 監督房地產以及其他從 LaMonda 處獲得的財產的管理與出售；(c) 監督 55 份人壽保險的管理並針對各項保險做出重要決定；(d) 進行盡職調查並收集必要資料將保險出售給潛在的競拍人；(e) 為售出人壽保險進行營銷；(f) 監督產生“掩護競拍人”的具體程序；(g) 進行為期兩天的聽證會（最終得出最後的標的以及人壽保險最終售出）；(h) 獲取顯示 ABC 以及 LaMonda 挪用投資人資金的銀行記錄；(i) 調查 IFS、Goldenberg、Wolock 並且確定接管人針對他們的訴求；(j) 調查

Chris Erwin 以及 E&J 並且確定接管人針對他們的訴求; (k) 調查 DMHS 以及 Stenning, 並且確認接管人針對他們的訴求;(l)調查 Jason Sun 並且確定接管人針對他的訴求; (m) 與多位來自美國、波多黎各及臺灣的投資人及投資人代表進行會談; (n)設計訴訟流程, 並且就決定近 4000 個訴求是否應該被批准進行必要的調查與溝通; (o)針對 LaMonda 屢次提出的針對接管人資產的虛假訴求提供抗辯。

Through July 31, 2014, the receivership estate paid QSLWM \$3,185,225.34 and is still holding \$302,073.15 as the court-ordered holdback. Assuming the holdback is eventually approved, the total fees paid to QSLWM equate to approximately 5% of the amount collected by the Receiver. Contemporaneous with the filing of this report, QSLWM has filed a Final Fee Application which addresses the fees in more detail.

截至 2014 年 7 月 31 日, 接管人向 QSLWM 支付了 3,185,225.34 美元, 但是仍持有法院命令暫時停止支付的 302,073.15 美元。如果該筆扣留的資金最終被批准, 那麼向 QSLWM 支付的總金額將占接管人收回的總金額的 5%。在本報告提交的同時, QSLWM 也提交了一份最終費用清單, 就費用進行了更詳細的解釋。

2. Munsch Hardt

Munsch Hardt Kopf & Harr, P.C. (“Munsch Hardt”) is a law firm based in Dallas, Texas, that employs the Examiner and his attorneys and legal assistants who handled various issues that affected the investors’ interests. (Order Appointing Examiner [Doc. No. 12].) Among many other things, the attorneys and staff at Munsch Hardt have provided valuable input and assistance on the investors’ behalf by: (a) serving as the primary point of communications with all investors; (b) meeting with numerous investors and investor representatives located in the U.S., Puerto Rico, and Taiwan; (c) consulting with the Receiver on the claims and distribution process

to ensure that investor concerns are taken into account; (d) advising the Receiver of various problems raised by investors and overseeing orderly and fair resolutions of them; (e) thoroughly examining financial records to help determine the prior expenses and expected value of ABC's portfolio of 55 life insurance policies in anticipation of sale; (f) ensuring the portfolio of life insurance policies was thoroughly marketed to prospective purchasers; and (g) consulting and advising the Receiver on litigation decisions to ensure they resulted in a net recovery for the estate.

Munsch Hardt Kopf & Harr, P.C. (以下簡稱“Munsch Hardt”)是一家位於德克薩斯州達拉斯市的律所, 該律所聘用了處理許多影響投資人利益事務的監督人、及其律師與法律秘書(指派監督人的判決[文件號 12])。Munsch Hardt 的律師與工作人員提供了許多有價值的意見並提供了以下協助: (a)作為與所有投資人溝通交流的主要聯絡人; (b)與位於美國、波多黎各及臺灣的多位投資人以及投資人代表會談; (c)與接管人就訴求以及分配流程進行溝通以確保投資人的想法被納入考慮之中; (d)就多位投資人提出的問題向接管人提出建議並且監督這些問題得到有序公正的解決; (e)全面檢查財務記錄以幫助確定 ABC 的 55 份人壽保險之前的花費以及其預估的價值; (f)確保已向潛在買方就人壽保險組合進行了充分的營銷; (g)就訴訟的相關決定為接管人提供建議以確保接管人可從中獲得淨收益。

Through August 15, 2014, the receivership estate paid Munsch Hardt \$1,134,487.44. The receivership estate is still holding \$37,727.73 as the court-ordered holdback. Assuming the holdback is eventually approved, the total fees paid to Munsch Hardt equate to approximately 1.7% of the amount collected by the Receiver. Contemporaneous with the filing of this report, Munsch Hardt has filed a Final Fee Application which addresses the fees in more detail.

截至 2014 年 8 月 15 日，接管人向 Munsch Hardt 支付了 1,134,487.44 美元。接管人仍持有法院判決的暫停支付的 37,727.73 美元。如果該暫停支付的金額被批准，接管人向 Munsch Hardt 支付的總金額約占接管人收回的總金額的 1.7%。在本報告提交之時，Munsch Hardt has 也提交了最終費用清單，更詳細的解釋了各項費用。

3. Borod & Kramer

Borod & Kramer, P.C. (“B&K”) is a law firm in Memphis, Tennessee, that the Receiver retained as his special counsel for pursuing litigation against defendants located in the United States.⁴ The total amount paid to B&K for their services is \$155,813.97 which equates to approximately 0.02% of the amount collected by the Receiver. Among other things, the attorneys and staff at B&K provided assistance to the Receiver by: (a) conducting the two-day evidentiary hearing that resulted in the final bid and sale of the life insurance policies; (b) overseeing litigation against IFS, Goldenberg, Wolok and negotiating the settlement that paid death benefits from Goldenberg’s life insurance policy to the receivership estate; and (c) overseeing litigation against Chris Erwin and E&J and their cross-claims against Mills Potoczak, DMHS, and Stenning. No additional amounts are owed to B&K.

Borod & Kramer, P.C. (以下簡稱 “B&K”) 是一家位於田納西州孟菲斯市的律所，接管人聘用該律所作為其針對美國被告提起訴訟的特別顧問。接管人向 B&K 支付的總金額為 155,813.97 美元，約占接管人收回的總金額的 0.02%。B&K 的律師與工作人員在以下方面向接管人提供協助：(a)進行了持續兩天的聽證會，獲得了最終標的並且售出了人壽保險；(b)監督針對 IFS、Goldenberg、Wolock 的訴訟，並且就將 Goldenber 人壽保險的

⁴ B&K changed its name to Kramer & Crone, PLC. Eventually that practice was closed and Bruce Kramer joined Apperson Crump in Memphis.

註 4：B&K 將其名字改為 Kramer & Crone, PLC。該律所最終會關閉，而 Bruce Kramer 將會加入位於孟菲斯市的 Apperson Crump。

死亡撫恤金支付給接管人進行談判；(c)監督針對 Chris Erwin 與 E&J 的訴訟，以及兩者針對 Mills Potoczak、DMHS、與 Stenning 的訴訟。現在接管人不欠 B&K 任何費用。

4. LSSM

Litzler, Segner, Shaw & McKenney LLP (“LSSM”) is an accounting firm in Dallas, Texas, that the Receiver retained to provide forensic accounting, financial accounting, and tax services. Among other things, the accountants and staff at LSSM provided significant assistance to the Receiver by: (a) preparing summaries of ABC’s, E&J’s, and LaMonda’s accounts that show how investor money was spent; (b) providing the analysis to prove that ABC was an insolvent Ponzi scheme; (c) calculating the amount that ABC’s premium escrow account was underfunded at all points in time; and (d) providing financial accounting and tax services to the receivership estate that tracks its income and expenses.

Litzler, Segner, Shaw & McKenney LLP (以下簡稱“LSSM”)是一家位於德克薩斯州達拉斯市的會計師事務所，接管人聘用該事務所為其提供法務會計、財務會計以及稅務服務。LSSM 的會計師及工作人員為接管人提供以下協助：(a)針對 ABC、E&J、以及 LaMonda 的賬戶準備賬戶摘要，以顯示投資人的投資金額是如何花費的；(b)提供分析證明 ABC 是一個資不抵債的龐氏騙局；(c)計算 ABC 保險委托賬戶中的金額，證明其一直處於金額不足的狀態；(d)為接管人提供財務會計與稅務服務以協助追蹤其收入與花費。

Through July 31, 2014, the receivership estate paid LSSM \$636,269.61. The receivership estate is still holding \$68,263.23 as the court-ordered holdback. Assuming the holdback and the additional is eventually approved, the total fees paid to LSSM equate to approximately 1% of the amounts collected and administered by the Receiver. Contemporaneous with the filing of this report, Litzler Segner has filed a Final Fee Application which addresses the fees in more detail.

截至 2014 年 7 月 31 日，接管人向 LSSM 支付了 636,269.61 美元。接管人仍持有法院判決暫停支付的 68,263.23 美元。如果該暫停支付的金額被批准，接管人向 LSSM 支付的總金額約占接管人收回並管理的總金額的 1%。在本報告提交的同時，Litzler Segner 提交了一份最終費用清單，詳細解釋了各項費用。

5. Tom Tong

Tong & Sung P.C. (“T&S”) is a law firm in Houston, Texas, that the Receiver retained to provide translation services for communicating with the Taiwanese investors. Among other things, the attorneys and staff at T&S provided assistance to the Receiver by: (a) serving as the primary point of communications with the thousands of Taiwanese investors and sales agents who have an interest in this lawsuit; (b) translating the numerous inquiries from investors and the responses by the Examiner, Receiver, and SEC; (c) translating investor updates, important pleadings filed in this lawsuit, and explanations that appear on the Examiner’s and the Receiver’s websites; and (d) providing translation services during meetings with investors from Taiwan.

Tong & Sung P.C. (以下簡稱“T&S”)是一家位於德克薩斯州休斯敦市的律所，接管人聘用該律所以便為與臺灣投資人的溝通提供翻譯服務。T&S 的律師與工作人員為接管人提供以下協助：(a) 作為與上千名臺灣投資人及涉案的銷售代表之間溝通的主要聯絡人；(b)翻譯來自投資人的大量問題以及監督人、接管人與 SEC 對這些問題做出的回復；(c)翻譯投資人的最新情況、提交的重要訴訟文件，以及監督人與接管人網站上的相關解釋；以及 (d)在與臺灣投資人的會談中提供翻譯。

Through August 26, 2014, the receivership estate paid T&S \$216,391.48. The receivership estate is still holding \$6,565.00 as the court-ordered holdback. Assuming the holdback and the additional is eventually approved, the total fees paid to T&S equate to

approximately 0.03% of the amounts collected and administered by the Receiver. Contemporaneous with the filing of this report, T&S has filed a Final Fee Application which addresses the fees in more detail.

截至 2014 年 8 月 26 日，接管人向 T&S 支付了 216,391.48 美元。接管人仍持有法院判決暫停支付的 6,565.00 美元。如果該暫停支付的金額被批准，接管人向 T&S 支付的總金額約占接管人收回並管理的總金額的 0.03%。在本報告提交的同時，T&S 提交了一份最終費用清單，詳細解釋了各項費用。

6. Blake Laphorn

Blake Laphorn is a law firm based in London that the Receiver retained to pursue litigation in the United Kingdom against DMHS and Stenning. Among other things, the attorneys and staff at Blake Laphorn provided substantial assistance to the Receiver by: (a) assisting in the investigation of DMHS, Stenning, and Albatross and gathering information about them from other parties located outside the United States; (b) determining what claims the Receiver has against DMHS and Stenning; (c) advising the Receiver about the realities of litigation, collection, and settlement in the United Kingdom; (d) preparing the extensive claim of particulars against DMHS and Stenning and filing it to initiate the lawsuit; (e) handling the burdensome pre-suit and discovery procedures required in the United Kingdom; and (f) assisting the Receiver to obtain very favorable settlements in connection with the matters they handled.

Blake Laphorn 是一家位於倫敦的律所，接管人聘用該律所在英國針對 DMHS 與 Stenning 提起訴訟。Blake Laphorn 的律師與工作人員為接管人在以下方面提供協助：(a) 協助調查 DMHS、Stenning、以及 Albatross 並從其他位於美國以外的各方收集相關信息；(b) 確定接管人針對 DMHS、Stenning、以及 Albatross 的訴求；(c) 針對在英國的訴訟實際情

況、執行、以及和解情況為接管人提供建議;(d)準備針對 DMHS 及 Stenning 的訴求並向英國法院提交訴狀; (e)處理英國法院要求進行的繁瑣的訴訟前與取證過程; 以及(f) 針對其處理的事宜協助接管人獲得有利的和解結果。

The total amount paid to Blake Laphorn for their services is \$635,546.90 which equals approximately 0.09% of the amounts collected and administered by the Receiver. No additional fees are owed to Blake Laphorn.

接管人向 Blake Laphorn 支付的總金額為 635,546.90 美元，占接管人收回與管理的總金額的 0.09%。接管人不欠 Blake Laphorn 任何費用。

7. Studio Legale Sutti

Studio Legale Sutti (“Studio Legale”) is a law firm based in Italy that the Receiver retained to investigate Albatross and pursue claims in Albatross’s insolvency proceedings in Italy. Among other things, the attorneys and staff at Studio Legale provided assistance to the Receiver by: (a) assisting in the investigation of Albatross and gathering information about it from documents and other parties located in Italy; (b) preparing a report about Albatross, its finances, various litigation pending against it, and its principal officer’s criminal record; (c) filing claims to recover money through criminal proceedings and insolvency proceedings in Italy; (d) monitoring those proceedings and advising about the expected recovery that will be distributed to claimants; and (e) translating important documents supporting the Receiver’s claims against DMHS and Stenning.

Studio Legale Sutti (以下簡稱 “Studio Legale”) 是一家位於意大利的律所，接管人聘用該律所對 Albatross 進行調查，並針對 Albatross 在意大利的破產案提起訴訟。Studio Legale 的律師與工作人員在以下方面協助接管人：(a)協助調查 Albatross 並從位於意大利

的各方與文件中收集相關信息；(b)準備關於 Albatross、其財務情況、針對其的多項訴訟、以及其核心高管人員的刑事記錄的報告；(c)提交訴求以從意大利的刑事案與破產案中收回金額；(d) 監督這些案件程序並且就可向訴求方分配的金額提供建議；以及(e) 翻譯重要文件以支持接管方針對 DMHS 及 Stenning 的訴訟。

The total amount paid to Studio Legale Sutti for their services is \$40,144.21 which equates to approximately 0.006% of the amounts collected and administered by the Receiver. No additional fees are owed to Studio Legale Sutti.

接管人向 Studio Legale Sutti 支付的總金額為 40,144.21 美元，約占接管人收回與管理的總金額的 0.006%。接管人不欠 Studio Legale Sutti 任何費用。

8. Lowndes Drosdick

Lowndes, Drosdick, Doster, Kantor & Reed, P.A. (“Lowndes Drosdick”) is a law firm based in Florida that the Receiver retained to handle specialized real estate litigation involving LaMonda’s house in Kissimmee, Florida. Among other things, the attorneys and staff at Lowndes Drosdick provided assistance to the Receiver by: (a) advising him about his options to proceed with litigation against the Kissimmee house under Florida law; (b) filing the lawsuit in Florida that foreclosed the Receiver’s equitable lien against the Kissimmee house; and (c) responding to LaMonda’s pleadings and his unsuccessful appeal of the foreclosure judgment.

Lowndes, Drosdick, Doster, Kantor & Reed, P.A. (以下簡稱 “Lowndes Drosdick”) 是一家位於佛羅裏達州的律所，接管人聘用該律所處理涉及佛羅裏達州 Kissimmee 房產的訴訟。Lowndes Drosdick 的律師與工作人員在以下方面協助接管人：(a)就其是否繼續依據佛羅裏達州法律針對 LaMonda 在 Kissimmee 的房產進行訴訟提供建議；(b)在佛羅裏達州提

起訴訟，止贖接管人對 Kissimmee 房產等價的質押權；以及(c)對 LaMonda 提交的訴訟文件以及其有關止贖上訴作出回應。

The total amount paid to Lowndes, Drosdick for their services is \$72,224.58 which equates to approximately 0.01% of the amounts collected and administered by the Receiver. No additional fees are owed to Lowndes Drosdick.

接管人向 Lowndes Drosdick 支付的總金額為 72,224.58 美元，約占接管人收回與管理的總金額的 0.01%。接管人不欠 Lowndes Drosdick 任何費用。

IV. Investor Claims & Interim Distribution

投資人的權利主張以及中期分配

The Receiver has reviewed all investor claims and made his recommendations that the Court allow, disallow, or adjust each one. The majority of the claims have been resolved by Court orders. In summary, the Court has allowed 3,897 claims against the receivership estate totaling \$115,901,079.36. (Orders [Doc. Nos. 141, 144, 149, 160, 177, 199, 209, 212, 253, 271, 272, 274, 276, 292].) Contemporaneous with the filing of this report, the Receiver has filed his Twelfth Motion to Allow “A” Claims whereby he has requested an additional fifteen (15) “A” claims totaling \$439,888.86 be allowed. Assuming the Twelfth Motion to Allow “A” Claims is approved, the Court will have allowed a total of 3912 claims against the receivership estate totaling \$116,340,968.22. A comprehensive schedule of those claims is attached as Exhibit 3.

接管人審閱了所有投資人的權利主張，並且向法院就批准、不批准、或調整權利主張提供建議。大部分的權利主張已經通過法院判決得到了解決。法院共批准了總計金額為 115,901,079.36 美元的 3897 項權利主張（判決 [文件號 141, 144, 149, 160, 177, 199, 209,

212, 253, 271, 272, 274, 276, 292])。在本報告提交的同時，接管人提交了其第十二次動議——請求增加權利主張，該動議將請求另外增加總金額為 439,888.86 美元的 15 項權利主張。如果此項動議被批准，那麼法院將批准總金額為 116,340,968.22 美元的 3912 項主張。這些權利主張的具體情況在示證 3中列出。。

After the Interim Report was approved, the Receiver continued to review and approve several additional claims. With respect to the Twelfth Motion, the Receiver has already paid nine of those claims their interim distribution amount. There are six claims covered by the Motion which have not yet received an interim distribution amount. For all six claims that amount totals \$7,765.76. The Receiver intends to pay those six claims their interim distribution amount at the time he makes the final distribution to all claimants.

在中期報告被批准後，接管人繼續審閱並批准另外幾項權利主張。第十二次動議中涉及的權利主張，接管人已在中期分配時支付了其中 9 項。動議中有 6 位投資人還沒有收到中期分配。該 6 項權利主張的總金額為 7,765.76 美元。接管人有意在其最終向所有投資人支付分配金額時向這 6 位投資人支付中期分配。

On January 12, 2011, the Receiver filed an Interim Report and Proposed Interim Distribution [Doc. 294] which the Court approved by Order dated March 21, 2011 [Doc. 303]. Thereafter, the Receiver distributed an aggregate of \$15,000,000.00 to investors holding approved claims which equaled 12.94% of their allowed claims.

2011 年 1 月 12 日，接管人提交了中期報告及擬議的中期分配方案 [文件號 294]，法院於 2011 年 3 月 21 日批准了該文件 [文件號 303]。之後，接管人向法院已經批准的投资人分發了總金額 15,000,000.00 美元，占批准的權利主張總數的 12.94%。

Assuming the Court grants the requested fee applications and holdbacks of professional fees described above, the Receiver will have approximately \$8,535,343.80 to distribute to investors by virtue of a final distribution. Attached as Exhibit 4 is a schedule as to how this amount is calculated. The actual amount will vary based upon interest accruals in the interim and the rulings by the Court on pending fee applications.

如果法院批准上述費用以及暫停支付的專業人員部分費用，接管人手中將還有 8,535,343.80 美元進行最後一次分配。示證 4 顯示了這個金額是如何計算出的。實際支配的金額將基於中期累積的利息以及法院對以上費用的判決。

The Receiver asks for authority to make a *pro-rata* final distribution to all of the allowed claimants in the aggregate total amount of \$8,535,343.80. Such a distribution would pay an additional approximate 7.33% of the total allowed claims. This distribution amount is calculated as follows:

接管人請求法院批准將總金額 8,535,343.80 美元按比例向所有經法院批准的投資人進行最後一次分配。該分配將支付經批准的權利主張總數的約 7.33%。分配金額的計算方法如下：

$$\frac{\text{Amount to be Distributed}}{\text{Total Allowed Claims}} = \text{Distribution Percentage}$$

$$\frac{\text{待分配的金額}}{\text{已被批准的權利主張的數量}} = \text{分配的百分比}$$

$$\frac{\$ 8,535,343.80}{\$116,340,968.22} = 7.33\%$$

The schedule attached as Exhibit 3 shows the approximate amount each approved claim would receive through this final distribution. If approved, by virtue of the interim distribution and the

final distribution, investors holdings allowed claims will receive a total of approximately 20.27% of their allowed claim.

示證 3 詳細列出了每項批準的權利主張在最終分配中將收到的分配金額。如果得到法院批準，這次的最終分配加上 2011 年總計 1,500 萬美元的中期分配，將會返還投資人 20.27% 的投資。

In connection with mailing the final distribution, the Receiver proposes that a check equal to each investor's *pro-rata* share of the distribution amount be issued and mailed to each investor. Each check will contain a notice (either in English or in Mandarin Chinese) that the check is the final distribution, that no further amounts will be paid and that the check must be cashed within 180 days or it will be void. If an investor requests a wire transfer instead of a check (many of the Taiwanese investors will do so) the amount of the wire fee will be deducted from the investor's *pro-rata* share of the distribution amount. Based upon the interim distribution, the Receiver believes the foregoing process will work reasonably well and avoid most problems. However, there will be numerous email inquiries/complaints and most of them will be from Taiwanese investors. The Receiver will respond to those emails as appropriate and will require translation assistance.

關於郵寄最終分配，接管人提議將寫有每位投資人獲得的按比例分配的金額的支票郵寄給每位投資人。每張支票將附有一封通知（英文或中文通知）註明該支票是最終分配，未來將不會再分配任何金額而且該支票必須在 180 天內兌現，否則支票將作廢失效。如果投資人要求通過電匯的形式獲得最終分配（多位臺灣投資人會要求電匯），電匯的費用將從投資人按比例分配的金額中扣除。根據中期分配的經驗，接管人認為以上流程將順利進

行，並且會避免大部分問題。但是，還是會有許多問題或抱怨的電子郵件，而且多數是來自臺灣的投資人。接管人將妥善回復這些郵件並且在必要時請求協助翻譯這些郵件。

As more fully addressed in the Receiver's Final Fee Application, the Receiver believes that the out of pocket expense associated with mailing the final distribution will be approximately \$7,500.00 and the attorneys' fees will be approximately \$75,000.00. These amounts are based upon the costs and fees associated with the interim distribution. The Receiver also estimates that the normal monthly fees which will be charged by the Bank with respect to the account out of which the final distribution will be paid through the end of the case will be approximately \$5,000.00.

接管人的最終費用支付申請中詳細地解釋過，接管人認為其本人在郵寄最終分配中花費了約 7,500.00 美元，律師費用約為 75,000.00 美元。這些金額是基於中期分配的花費與費用。接管人估計，銀行在本案結束前針對分配金額賬戶按月收取的費用大約為 5,000.00 美元。

In connection with performing his duties, the Receiver has hundreds of boxes of documents (many of which are the records originally located in the Houston offices of ABC Viaticals, Inc.) which the Receiver proposes to place in a third party storage site for a period of three years. In that regard, the Receiver has negotiated an arrangement with the owner of a warehouse, 2360 Irving Blvd., LLC, to store the records for a three year period for a total cost of \$30,000.00 including destruction costs of the records at the end of the three year period. The Receiver believes the cost to be reasonable and requests authority to pay such amount.

關於接管人職責的履行，接管人手中有數百箱文件（其中許多文件是之前存放於 ABC Viaticals, Inc. 休斯頓辦公室的文件），接管人建議將這些文件存放於第三方的存儲空

間，存放 3 年。接管人已經與一家倉庫 2360 Irving Blvd., LLC 進行過協商，未來 3 年存儲這些記錄並在 3 年期滿後銷毀記錄的費用總計為 30,000.00 美元。接管人認為該費用價格合理，並請求法院批准支付。

V. **Conclusion**

結論

The Receiver asks this Court to approve this Final Report and, if necessary, to set a hearing and then enter an order which provides as follows:

接管人請求法院批准此最終報告，並且如有必要，進行聽證會，然後對以下事宜做出判決：

1. The Receiver is authorized to abandon and convey title to the Ft. Lauderdale condo to Leigh Bradley, the former wife of Keith LaMonda;

批准接管人放棄位於 Ft. Lauderdale 的公寓，並將該公寓的所有權轉給 Leigh Bradley, Keith LaMonda 的前妻；

2. The Receiver is authorized to make a final *pro-rata* distribution to investors holding approved claims in the aggregate amount of \$8,535,343.80;

批准接管人向經法院批准的投資人按比例進行最終分配，分配總金額為 8,535,343.80 美元；

3. The Receiver is authorized to pay all outstanding amounts approved by the Court pursuant to separately filed fee applications to the following professionals:

批准接管人根據被法院批准的費用報告向以下專業人員支付所有尚未支付的金額：

State Bar No. 24048770

ATTORNEYS FOR RECEIVER
接管人律師

CERTIFICATE OF CONFERENCE

協商證明

I hereby certify that prior to the filing of this motion, I contacted counsel for the SEC and the Examiner and they are not opposed to the relief requested.

本人特此證明在本動議提交之前，我聯系了 SEC 的律師以及監督人，他們雙方對本動議中提出的請求沒有反對意見。

/s/ Michael J. Quilling

Michael J. Quilling

CERTIFICATE OF SERVICE

送達證明

A copy of this pleading was served on all interested parties through the Court's electronic filing system and by U.S. Mail to:

本文件已通過法院的電子提交系統以及美國郵寄系統發送給所有相關方：

C. Keith LaMonda
Reg. No. 26060 – 018, Butner LSCI
P. O. Box 999
Butner, NC 27509

/s/ Michael J. Quilling

Michael J. Quilling

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