

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE** §  
**COMMISSION,** §  
Plaintiff, §

v. §

Case No.: 3:16-cv-01735-D

**CHRISTOPHER A. FAULKNER,** §  
**BREITLING ENERGY** §  
**CORPORATION, JEREMY S.** §  
**WAGERS, JUDSON F. (“RICK”)** §  
**HOOVER, PARKER R. HALLAM,** §  
**JOSEPH SIMO, DUSTIN MICHAEL** §  
**MILLER RODRIGUEZ, BETH C.** §  
**HANDKINS, GILBERT STEEDLEY,** §  
**BREITLING OIL & GAS** §  
**CORPORATION, CRUDE ENERGY,** §  
**LLC, PATRIOT ENERGY, INC.,** §  
Defendants, §

and §

**TAMRA M. FREEDMAN and** §  
**JETMIR AHMEDI,** §  
Relief Defendants. §

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**QUARTERLY STATUS REPORT OF RECEIVER FOR THE  
CALENDAR QUARTER ENDING JUNE 30, 2019**

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Upon the Receiver’s February 25, 2019 Motion to expand the Receivership Estate, this Court entered its Second Amended Order Appointing Receiver (Dkt. 418) (“Second Amended OAR”) in the above-styled action on March 26, 2019, finding the appointment of a receiver “necessary and appropriate for the purposes of marshaling and preserving all assets—in any form or of any kind whatsoever—owned, controlled, managed, or possessed by defendants Christopher A. Faulkner [(“Faulkner”)], Breitling Oil & Gas Corporation (“BOG”), Breitling Energy

Corporation (“BECC”), Crude Energy, LLC (“Crude Energy”) and Patriot Energy, Inc. (“Patriot”), and non-parties Breitling Royalties Corporation (“BRC”), Breitling Ventures Corporation (“BVC”), Breitling Holdings Corporation (“BHC”), Breitling Operating Corporation (“Breitling Ops”), Crude Royalties, LLC (“Crude Royalties”), Inwood Investments, Inc. (“Inwood[ Investments]”) and Grand Mesa Investments, Inc. (“Grand Mesa”) (collectively, the “Receivership Entities”), directly or indirectly (“Receivership Assets”).” Second Amended OAR at 1. Thomas L. Taylor III was “appointed to serve without bond as temporary receiver (the “Receiver”) for the estates of the Receivership Entities [(“Receivership Estate”)] and the Receivership Assets.” *Id.* ¶2.

In the Second Amended OAR the Court required that within the first day of each calendar quarter, the Receiver shall file a status report and accounting. *Id.* ¶53. This Status Report is submitted pursuant to that requirement. A schedule of the Receivership’s receipts and disbursements as required by the Second Amended OAR are attached hereto as **Exhibit A**. The Receiver addresses below his plan for administration of the Receivership Estate going forward. As indicated in his last Status Report, the Receiver submitted a Plan of Distribution, including a claims procedure and procedure for distribution to claimants. On March 28, this Court conditionally approved the Receiver’s proposed Plan of Distribution. The Court entered an Order (Dkt. 424) (the “March 28 Order”) requiring that the Receiver give notice to interested parties providing an opportunity to present any objections to the Plan. *See discussion infra, pp. 3-9.*

As previously reported to the Court, it is clear that some number of putative claimants received conveyances of specific oil and gas interests (with record title) while other putative claimants invested in interests which were pooled and/or administered by Breitling entities. Even the specific conveyances (with record title) are problematic, however, because (1) defendants conveyed percentage interests which exceeded the interests actually owned by defendants and (2)

some, if not all, of the oil and gas interests conveyed to investors were purchased with commingled investor funds. The status of claimants is further complicated because, in those circumstances in which title was purportedly conveyed, conveyances to investors in the fraudulent scheme were made by multiple entities including Receivership Entities BOG, BRC, Patriot, Crude Energy, and Crude Royalties.

In the latter stages of the fraudulent scheme's operation, Breitling/Crude/Patriot personnel attempted, under stress, to effect transfers of assets into the names of individual investors and/or to initiate direct payment of revenue to investors by producers. These transfers almost certainly involved assets which had been acquired by the Breitling entities with commingled funds. An unknown number of investors who received conveyances/record title may have been receiving income from producers associated with these assets even though they were purchased with commingled funds from the various entities. The Receiver is, of necessity, considering whether these investors are "net-winners" in the sense that they received greater returns than they invested, particularly in relation to other investors whose invested funds were commingled, but who did not receive record title or income related to their investments. These concerns are addressed in the Plan of Distribution approved by this Court in the March 28 Order -- subject to proof of notice to interested parties and opportunity to object.

#### **I. Plan of Distribution**

Pursuant to the Plan of Distribution, Receivership Assets ultimately will be distributed to those investors who have suffered a "net out-of-pocket loss" resulting from their investments in or through BOG, BRC, BECC, Crude Energy, Crude Royalties and Patriot (the "Offering Entities"). Receivership Assets would be distributed to these investors on a *pro rata* basis based upon the "net out-of-pocket loss" of each as a percentage of the total "net out-of-pocket losses" of all investor

claimants -- without regard to the manner by which the investments were made. Each claimant's "net out-of-pocket loss" would be calculated as (1) the total amount invested in or through the Offering Entities; less (2) any amounts, or the value of any assets, received with respect to the investment (*e.g.*, payments or assets transferred from a Receivership Entity, payments from a third-party oil and gas operating company, the sale of any oil and gas interest received from an Offering Entity, or the sale of any shares of BECC stock).<sup>1</sup>

The Plan of Distribution excludes "net winner" investors -- *i.e.*, those who received more in payments as a result of their investment than they invested into the scheme. Under the Texas Uniform Fraudulent Transfer Act, TEX. BUS. & COM. CODE §24.001 *et seq.* ("TUFTA"), transfers made "with actual intent to hinder, delay or defraud" creditors may be avoided, *id.* at §24.005, against any party who did not either (i) provide "reasonably equivalent value" or (ii) receive the transfer with objective "good faith." *Id.*, at §24.009(a). As a matter of law, an investor cannot provide "reasonably equivalent value" for their investment into a fraudulent scheme greater than the amount they invested.

The *pro rata* Plan of Distribution approved by this Court is a more equitable method of distributing a receivership's assets, particularly compared to methods based upon the "tracing" of assets to particular investors. A distribution based on tracing would be inequitable because "whether at any given moment a particular [investor's] assets are still traceable is a 'result of the merely fortuitous fact that the defrauders spent the money of the other victims first.'" *SEC v Credit Bancorp Ltd.*, No. 99-CV-11395, 2000 WL 1752979, at \*15 (S.D.N.Y. Nov. 29, 2000) (quoting *Durham*, 86 F.3d at 72)). To allow one investor "to elevate his position over that of other investors

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<sup>1</sup> The Receiver's Plan of Distribution also provides a mechanism for disqualification of any claimants who are former employees or affiliates of Breitling-related entities from inclusion in any distribution based on evidence that their conduct facilitated the Breitling scheme, or that they had objective notice of the fraudulent nature of the scheme.

similarly ‘victimized’ ... would create inequitable results, in that certain investors would recoup 100% of their investment while others would receive substantially less [].” *SEC v. Elliott*, 953 F.2d 1560, 1569 (11th Cir. 1992) (quotation omitted).

In application of these equitable principles, the Receiver, in connection with implementation of the Plan of Distribution, has asked the Court to invalidate certain conveyance instruments, referenced above, executed by Offering Entities in favor of some investors. The Receiver will seek to invalidate these conveyances through summary proceedings before the Court, affording notice and opportunity to respond to all affected parties.<sup>2</sup> Invalidation of these conveyances will be necessary for the Receiver to cure and recover title to these oil and gas assets and liquidate them for the benefit of all investor-claimants. Such action would effectively return these interests to the entities in Receivership which previously held title, after which the Receiver would be in a position to (1) receive funds held in suspense by operators and (2) liquidate the oil and gas interests under the supervision of this Court -- for the benefit of all defrauded investors under the Receiver’s proposed plan.

The invalidation of these defective conveyances will be the most equitable solution because permitting some of the investors to retain record title to the respective oil and gas interests would amount to a “tracing” of their assets through the fraudulent scheme -- from (i) their participation in a specific offering, to (ii) the comingling of proceeds among offerings and Offering Entities, to (iii) the purchase of oil and gas interests with contaminated funds, to (iv) the transfer of oil and

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<sup>2</sup> See *SEC v. Amerifirst Funding, Inc.*, No. 3:07-CV-1188-D, 2008 WL 282275, at \*15 (N.D. Tex. Feb. 1, 2008) (Fitzwater, J.), *aff’d in part, vacated & remanded in part, on other grounds*, 570 F.3d 268 (5th Cir. 2009) (“[A] district court may employ summary rather than plenary proceedings to adjudicate the rights to property allegedly within the receivership estate. Such summary proceedings related to receiverships do not offend the parties’ due process rights ‘so long as there is adequate notice and opportunity to be heard.’”) (quoting *Am. Capital Invs.*, 98 F.3d at 1146) (citing *Wencke*, 783 F.2d at 838; *Universal Fin.*, 760 F.2d at 1037) (footnote omitted).

gas interests to the investors. Tracing investor proceeds in this manner would yield an inequitable result vis-à-vis other investors. See *Durham*, 86 F.3d at 72.

Moreover, permitting some investors to retain record title to the respective oil and gas interests would be inequitable vis-à-vis all other claimants because these investors would almost certainly be “net winners” who received more from the fraudulent scheme than they invested into it. After the conveyances of oil and gas interests by Offering Entities to investors are invalidated, these investors will participate in the Plan of Distribution to the extent that any royalty payments received by them to date do not exceed the amount they invested in the Breitling scheme.

Finally, the Plan of Distribution subordinates the claims of trade creditors and other similarly-situated unsecured creditors to the claims of investors. See, e.g., *CFTC v. PrivateFX Global One*, 778 F.Supp. 2d 775, 786-87 (S.D. Tex. 2011) (citing *Quilling v. Trade Partners, Inc.*, No. 1:03-CV-0236, 2006 WL 3694629, at \*1-2 (W.D. Mich. Dec. 14, 2006) (finding that the equitable doctrine of constructive trust gave defrauded investors a “priority of right” over other claimants)).<sup>3</sup> In the unlikely event that distributions of Estate assets fully satisfy the investor-claimants’ claims, the Receiver may seek leave from the Court to distribute any remaining funds to trade creditors and other unsecured creditors on a *pro rata* basis.

## **II. Identification of Putative Claimants of the Receivership Estate and Service of the Notice of Plan of Distribution**

Pursuant to this Court’s On March 28, 2019 Order, the Receiver was required -- on or before June 5, 2019 -- (1) to serve notice on all potential claimants with postal addresses identified in the Receivership books and records, or by electronic mail to all such potential claimants for which the Receiver has identified an email address but is unable to identify a postal

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<sup>3</sup> As of this date, the Receiver is not aware of any debts or claims secured by Receivership Assets.

address; and (2) to cause to be published for one day in The Dallas Morning News and the national edition of the Wall Street Journal a notice of the Plan Motion consistent with the Notice of Plan.

The Receiver assembled a service list and effected service in accordance with the March 28 Order as follows:

- i. Personnel of Pannell Kerr Forster of Texas, P.C., engaged herein to provide forensic accounting services to the Receiver identified individuals and entities who at least potentially had invested funds into any of the components of the Receivership Estate; these individuals and entities were included on the service list.
- ii. Receiver's personnel examined the victim's list of the United States Attorney associated with the related criminal action pending in the United States District Court for the Northern District of Texas and added additional individuals or entities to the service list as necessary.
- iii. Receiver's personnel reviewed a list of names compiled by the Staff of the Securities and Exchange Commission of potential claimants who had contacted the Staff; these individuals were added to the service list.
- iv. Receiver's personnel added to the service list all potential investor/claimants who had contacted the Receivership through the Receivership website or otherwise.
- v. Receiver's personnel obtained an investor list with contact information compiled by JC Data Solutions, which had been engaged by certain of the Receivership Entities to process revenue payments; any additional names

retrieved from this source were added to the service list.

- vi. Receiver's personnel added to the service list all attorneys who have contacted the Receiver on behalf of potential investor/claimants.
- vii. Receiver's personnel added to the service list potential investor/claimants who have been identified by one or more oil and gas producers.
- viii. Receiver's personnel, to the extent possible, reviewed conveyance documents found in the Receivership books and records pursuant to which oil and gas interests were purportedly transferred to potential investor/claimants; these additional entities and individuals were added to the service list.
- ix. Receiver's personnel compared various purported "investor lists" which were found in the Receivership Entities' books and records and any names not otherwise included in the service list were added.

A service list was compiled including 1,369, entities and individuals. Of this number, the Receiver's personnel were able to retrieve addresses for 1,150. The Notice of Plan was served by mail on those individuals and entities. Of these 1,150, 104 mailings were returned as undeliverable. The Receiver's personnel caused the Notice of Plan to be emailed to these potential investors/claimants whose mailings were returned but for whom email addresses were available. The Receiver's personnel caused the Notice of Plan to be emailed to potential investors/claimants for whom addresses were not identified and for whom only email addresses were available.

On or about February 25, 2019, Receivership personnel posted the Notice of Plan on the Receivership website: [breitlingreceivership.com](http://breitlingreceivership.com). On or about May 1, 2019, the required notice was published in the legal section of the Dallas Morning News. On or about May 3, 2019, the



required notice was published in the legal section of the Wall Street Journal.

Pursuant to the March 28 Order, putative claimants were required to present their objections to the Plan of Distribution on or before 21 days after the filing of the Receiver's Certificate of Service. As of that date, six objections were filed with this Court. As required, the Receiver will file and serve his responses to the objections on or before July 17, 2019.<sup>4</sup> Carole Faulkner filed an untimely objection on July 28, 2019.

### **III. Efforts to Identify, Recover and Dispose of Assets**

#### *A. Recovery of Oil and Gas Assets*

At the inception of the Temporary Receivership, the Staff of the Commission provided the Receiver with information which had been developed during their investigation regarding working interests and royalty interests known to have been held by the Receivership Defendants. Most of the identified oil and gas operators associated with these interests were served with that Order. To the fullest extent possible, the Receiver initiated communication with these oil and gas operators directing that all revenue and other assets (including assets held in suspense) be remitted to the Receivership Estate. The operators with whom the Receiver has been able to establish contact have cooperated in identifying and documenting oil and gas assets to be administered by the Receivership Estate; they have also cooperated in agreeing to transfer associated revenue going forward. The Receiver will shortly determine whether to initiate proceedings where cooperation has not been forthcoming. The Receiver also has communicated with a number of investors -- and oil and gas operators associated with them -- who received specific conveyances. For the most part, revenue to which these investors may arguably be entitled is being held in suspense by

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<sup>4</sup> Pursuant to this Court's Order dated June 10, 2019 (Dkt. 444) the Court's approval of the Plan of Distribution is held in abeyance until the Court has ruled on the Objections presented by putative claimants.

operators -- primarily because of over-conveyance issues which have become apparent to the operators.

Going forward, the Receiver will continue to administer the existing oil and gas assets and the revenue associated with those assets pending their ultimate sale. The Receiver and his staff have assembled -- based upon incoming correspondence and royalty checks available to date -- a schedule of oil and gas assets which are presently thought to be subject to the Second Amended OAR. The schedule, attached hereto as **Exhibit B** sets forth the assets identified to date, along with additional data compiled.

In addition to efforts to harvest the available streams of revenue from the presently-known working and royalty interests, the Receiver and his staff are continuing to monitor whether and to what extent payments of Joint Interest Billings are required in order to preserve assets and determining whether and to what extent payment of such expenses can be justified in terms of preserving Receivership Assets. The Receiver also has initiated contact with law firms which regularly represent taxing authorities in order to determine whether and where there are tax liabilities associated with known interests. Where tax liabilities are located, it is anticipated that the Receiver will make best efforts to negotiate with respect to penalties and other fees which might be imposed. The Receiver also is attempting to recover and reinstate payments from operators who have placed Breitling revenues in suspense for a variety of reasons.

On May 30, 2019, the Receiver filed his Motion (1) for Authority to Sell Oil and Gas Interests; (2) for Authority to Retain Sales and Marketing Firm; and (3) for Approval of Sales Procedures (Dkt. 438) (the "Sales Procedure Motion"). The Receiver sought leave to sell the portfolio of oil and gas interests included within the Receivership Estate, employing EnergyNet.com, LLC ("EnergyNet") -- a reputable and professional, internet-based oil and gas

marketing firm in Amarillo, Texas -- to assist the Receiver in marketing and selling these assets pursuant to prescribed procedures (including procedures for Court review and confirmation of each sale).

The Receiver sought approval to sell through EnergyNet all oil and gas assets which presently are in, or which -- pursuant to further proceedings -- will be in, the Receivership Estate (the "Breitling Portfolio"). Accordingly, the proposed agreement with EnergyNet would subsume all working interests, royalty interests and any other oil and gas assets which are presently within the Estate or which will be in the future pursuant to further proceedings. The proposed procedures for sale and confirmation would apply to the same extent. At this juncture, the Receiver would make the Court aware that only working interests in the Breitling Portfolio and a limited number of the royalty interests in the Breitling Portfolio are ready to be presented for sale.

As the Receiver described for the Court in some detail in his Motion seeking approval of a Plan of Distribution, many of the royalty interests, which properly should be included within the Receivership Estate, were purportedly conveyed to investors through materially defective instruments. As previously noted, the Receiver will seek reconveyance of those royalty interests to the Estate. Material discrepancies exist in conveyance instruments executed by the Receivership entities in favor of Investors. In many instances, these defective conveyances were recorded in official real property records in various counties of several States. Specifically, Receivership Entities "over-conveyed" royalty interests, creating an anomalous situation in which investors collectively received -- sometimes of record -- more than 100% of the interests which the Receivership entity purported to own. In all of these instances, title to the royalty interests conveyed is clouded. As a result of these title defects, (i) many oil and gas operators have

suspended royalty payments under the Texas Natural Resources Code, Section 91.402(b); and (ii) these royalty interests are unmarketable for resale.

*B. Efforts to Recover Liquid Assets*

**1. Cashier's Checks**

In connection with this Court's Order entered on February 13, 2018 (the "February 13 Contempt Order") (Dkt. 247), the Receiver expressly made demand that Mr. Faulkner account for a series of missing Cashier's checks totaling almost \$1 million. The Receiver's demand for an accounting of these Cashier's checks was based upon the fact that funds used to purchase the Cashier's checks were traceable to oil and gas revenue of the Breitling entities. Defendant Christopher Faulkner disclaimed knowledge of the whereabouts of these Cashier's checks or the proceeds associated with them. On March 19, 2018, the Receiver transmitted a letter to Mr. Faulkner's counsel rejecting this response and advising that Mr. Faulkner would be deemed to be in violation of the February 13 Contempt Order for failing to account for these assets traceable to revenue from the Breitling entities. The provenance of these Cashier's Checks has previously been described to this Court in Quarterly Status Reports and in related motions presented by the Receiver. In summary, funds owned by one or more of the Receivership Entities were transferred through Defendant Faulkner into a Dallas residential property which was titled to Inwood Investments, a Faulkner alter-ego which is now within the Receivership Estate. When the property was sold, the funds were deposited into Frost Bank and, at the direction of Carole Faulkner, converted into a series of Cashier's Checks, including the approximately \$1 million in Cashier's Checks at issue. Extensive efforts were undertaken by the Receiver and law enforcement to retrieve the Cashier's Checks (and/or prevent their negotiation). Efforts to retrieve the missing Cashier's Checks were unsuccessful. Nonetheless, the Receiver and FBI agents learned that the missing

checks were in the possession of a U.S. national resident in Lebanon, Benny Kheir. The individual provided photographic evidence that the checks were in his possession.

Since in the view of the Receiver, the missing Cashier's Checks were (1) located, and (2) essentially neutralized, the Receiver sought an Order requiring that the underlying funds held in Frost's general accounts be turned over to the Receivership Estate. On February 25, 2019 this Court determined that under applicable provision of the Uniform Commercial Code, Frost remained liable and, accordingly, could not be required to remit the funds.

The United States Attorney's Office in Dallas has made demand of that Mr. Kheir return the Cashier's Checks to the Receivership Estate on the basis that the checks themselves were subject to a seizure order under the jurisdiction of the U.S. District Court; the Receiver has made multiple demands of Mr. Kheir that he deliver the checks to the Receivership Estate on the basis that they are owned equitably by Receivership Entities. To date, the efforts to the U.S. Attorney and the Receiver have been unsuccessful. Further proceedings likely will ensue before this Court with respect to Mr. Kheir's failure to comply.

## **2. Assets in Possession of Christopher Faulkner Upon his Arrest**

On or about June 18, 2018 FBI and IRS agents arrested Defendant Faulkner as he was boarding an aircraft at Los Angeles International Airport destined for the United Kingdom. The United States Attorney's Office for the Northern District of Texas had initiated a criminal complaint which was the basis for Mr. Faulkner's incarceration. In connection with the arrest of Mr. Faulkner, the United States Attorney took possession of items of personal property which were within Mr. Faulkner's custody and control including cash, gold bars and a watch of significant value. On September 6, 2018, the Receiver filed a Motion for Turnover of Assets Under the Control Of Christopher Faulkner (Dkt. 313), seeking turnover of the seized assets.

On September 27, 2018, non-party First Capital Gold, Inc. (“FCG”) purportedly responded to the Receiver’s Motion to Turnover Assets asserting that the cash and physical gold in question belonged to FCG and contending that Christopher Faulkner had been traveling to London in order to sell the property -- purportedly owned by FCG -- to a potential customer. FCG, represented by Carole Faulkner, purported to propound a Declaration in support of these contentions. Following an initial hearing of the matter before the Court on December 14, 2018, Earl Davenport, FCG’s principal, contacted the Receiver and disclaimed FCG’s assertion of ownership and indicating that Ms. Faulkner was no longer authorized to represent it. Accordingly, on January 9, 2019, the Receiver filed a Motion to Strike FCG’s opposition to the Receiver’s Motion for Turnover of Assets (Dkt. 377). A hearing was held before the Court on Wednesday, January 16, 2019, after which this Court entered an Order Granting Receiver’s Motion for Turnover of Assets (Dkt. 390).

On January 28, 2019, Receiver met with FBI agents at BBVA Compass in Houston to effectuate turnover of the assets to the Receivership Estate. The physical assets were placed in a segregated safe deposit box pursuant to the Order.

#### **IV. Receiver’s Motion for Attorney’s Fees Arising from Contempt Proceedings**

On February 13, 2018, this Court held defendants Faulkner, BOG, and BECC, and non-parties Carole Faulkner, BRC, and U.S. Property Investments, Inc. (“USPI”) in civil contempt for violating three Court orders: the August 14, 2017 Order Appointing a Temporary Receiver (“August 14 OAR”), the August 14 Asset Freeze Order (collectively, the “August 14 Orders”), and the September 25 OAR. The Court held that Faulkner, BOG, and BECC—knowingly aided and abetted by BRC—violated the August 14 OAR by diverting Receivership assets, failing to produce required documents, and failing to produce required corporate representatives. The Court also held that Faulkner—knowingly aided and abetted by Carole—violated the September 25 OAR

by failing to turn over proceeds from the sale of one of his companies, RackAlley LLC (the “RackAlley Proceeds”). Finally, the Court held that Carole and USPI had aided and abetted Faulkner in violating the September 25 OAR by commencing a lawsuit against the Receiver in California state Court without leave of this Court.

In addition to holding these defendants and non-parties in civil contempt, the Court held that the Receiver was “entitled to recover his reasonable and necessary attorney’s fees incurred in prosecuting the instant contempt motion.” Dkt. 247 at 42. On March 13, 2018, the Receiver applied for award of attorney’s fees consistent with the Court’s Contempt Order and requested award of these attorney’s fees be allocated according to the culpability of the various contemnors. Dkts. 258, 259.

On June 7, 2018, this Court approved Receiver’s application and awarded him the total sum of \$183,376.34 in attorney’s fees and costs. The Court held that, of this sum, Faulkner, BECC, BOG, and BRC are jointly and severally liable for \$65,285.82 in attorney’s fees and costs; Faulkner and Carole are jointly and severally liable for \$59,195.82; and Carole and USPI are jointly and severally liable for \$58,894.70. Pursuant to this Court’s order, payment of these sums was due no later than 30 days after the Memorandum Opinion and Order was filed.

No amounts were paid pursuant to the Court’s Order. On or about August 3, 2018, the Receiver moved this Court for Entry of Final Judgment upon the foregoing amounts. In open court, the Receiver withdrew that motion and the Court proceeded to hear evidence on the Receivers’ Motion for Order to Show Cause Why Carole Faulkner Should Not be Held in Contempt of the Court’s Fee Order. Dkt. 299. On January 22, 2019, this Court entered its Memorandum Opinion and Order adjudicating Carole Faulkner to be in contempt (the “January 22 Order”). Dkt. 397.

The Court found by clear and convincing evidence that Carole Faulkner violated its previously entered “Fee Award” for roughly \$118,000 in attorney’s fees, and that she did not meet her burden of showing that compliance was impossible. *Id.* at 5, 10. The Court held Carole Faulkner in civil contempt and ordered her to pay the Receiver \$118,090.52 by April 22, 2019.

On August 24, 2018, the Receiver moved for an order approving his Application for Attorney’s Fees and Costs Pursuant to Sanctions Order. Dkt. 307. On November 13, 2018, the Court granted the Receiver’s motion requiring Carole Faulkner to pay \$10,045.50 within 30 days. Dkt. 336.

On April 10, 2019, Carole Faulkner filed a Motion for Extension of Time to Comply with the January 22 Order. The Receiver responded to her Motion on April 12, 2019. By order dated June 28, 2019, this Court denied Ms. Faulkner’s motion for Extension of Time (Dkt. 451). On June 24, 2019, the Receivership received \$128,132 from Carole Faulkner in full payment of both fee awards. Accordingly, it is the Receiver’s understanding that Ms. Faulkner is responsible to make a \$250/day payment to the U.S. District Court from the date of the order to June 24, 2019.

## **V. Potential Claims of the Receivership Estate**

The Receiver has investigated various “clawback” claims pursuant to the Texas Uniform Fraudulent Transfer Act and related equitable principles.

### *A. Brokers/Sales Representatives*

The Receiver is coordinating efforts with the Staff of the Commission regarding claims against individuals who were active in (and compensated from) the offer and sale of oil and gas interests by the Defendants. Payments were made by Defendants to numerous individuals and their nominee entities aggregating millions of dollars. The Commission has initiated Administrative Proceedings against at least five of the brokers who received the largest amounts in payments. It



is anticipated that the Commission will establish a Fair Fund to receive disgorgements achieved in these Administrative Proceedings for the benefit of claimants in the Receivership.

The Receiver has made demand upon other brokers and sales representatives who received payments and is attempting to locate and initiate communication with a number of others. In this regard, the Receiver understands that approximately sixteen individuals (mostly through nominee entities) received payments in excess of \$100,000. In connection with these efforts, the Receiver is reviewing extensive accounting data assembled by Veritas Advisory Group, Inc. and by the Commission's Staff. The Receiver's efforts in this regard have been hampered by the incoherent books and records of the Receivership Entities and, in particular, the absence of any comprehensive personnel records. The Receiver has initiated informal information requests with the two payroll processing firms which were employed by the Receivership Entities in an attempt to compile usable contact information. Very little information has been discovered. In addition, the Receiver is seeking additional contact information on an informal basis from former Breitling personnel who are willing to assist him. To date, no settlements have been reached; the Receiver will pursue settlement discussions where fruitful but expects to initiate clawback litigation when practicable. As required by the Second Amended OAR, the Receiver will seek leave of this Court to initiate litigation if warranted.

*B. Potential Claims Against Professionals*

The Receiver has continued his investigation and has conducted discovery regarding services provided to the Receivership Entities by legal and accounting professionals and others. The Receiver has determined that in several instances legal and accounting professionals rendered services which were not conforming to applicable professional standards. The Receivership

entities have sustained substantial damages as a result. In these circumstances, claims for negligence should be asserted along with related tort claims.

On March 13, 2019, this Court granted the Receiver's motion to initiate litigation against Rothstein Kass & Co., PLLC and its personnel ("Rothstein Kass") based, *inter alia*, upon its failure to perform auditing services for BOG and BRC in accordance with generally accepted auditing standards, giving rise to damages arising from claims of investors against the Receivership Entities. The Receiver engaged in extensive efforts to resolve the claims of the Receivership Entities through negotiation. These efforts were unsuccessful. On July 1, 2019, the Receiver commenced the action entitled *Thomas L. Taylor III, solely in his capacity as Court-appointed temporary receiver for Breitling Energy Corporation, et al. v. Rothstein Kass & Company, PLLC and Brian Matlock*, Civil Case No. 3:19-cv-1594-B in the United States District Court for the Northern District of Texas.

The Receiver has also concluded that legal action on behalf of the Receivership Estate is warranted concerning potential professional negligence and related claims as to two law firms which rendered services to the Receivership Entities in connection with the offer and sale of securities, the preparation and filing of reports under the Securities Exchange Act of 1934 on behalf of BECC, and other related matters. The Receiver also has determined that clawback actions are appropriate regarding professional fees and expenses paid by the Receivership Entities to legal firms. The Receiver has initiated settlement discussions with respect to these putative claims and expects shortly to determine whether resolution is possible. As required by the Second Amended OAR, the Receiver will seek leave of this Court to initiate litigation if necessary.

*C. The Commission's Settlements with Relief Defendants*

On July 20, 2018, this Court entered a Final Judgment as to Relief Defendant Tamra Freedman. The judgment orders that Freedman is liable for \$900,000 in disgorgement to be due within 180 days of the date of the judgement. Assets previously seized from Freedman (\$795,247 in a frozen checking account and a 2014 Land Rover Range Rover) will be credited to offset against the judgment. The Receiver transported the seized vehicle from California to Texas via auto-transport service and effect a sale of the vehicle for \$50,000 on or about October 24, 2018. On or about November 9, 2018, the U.S. Treasury initiated a transfer of \$795,247 to the Receivership Estate. The balance of Ms. Freedman's disgorgement amount (\$52,752.23) was transmitted to the Receivership Estate on or about January 15, 2018.

In its Amended Complaint herein the Staff of the Commission included Jetmir Ahmedi as a Relief Defendant. The Commission concluded a settlement with Relief Defendant Ahmedi which required him to pay \$222,000 of funds received from the Defendants. The settlement funds are to be transmitted to the Receivership Estate for distribution to investors. On or about March 8, 2018, \$150,000 of the settlement funds were deposited into the Receivership Estate. A second payment of \$5,000 was made on June 25, 2018. Required payments are in arrears and it is the Receiver's understanding that the Staff of the Commission has initiated collection proceedings.

Dated: July 2, 2019

Respectfully submitted,

By: /s/ Thomas L. Taylor III

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RECEIVER

**CERTIFICATE OF SERVICE**

I certify that on July 2, 2019 I filed the foregoing document through the Court's CM/ECF filing system, which satisfies service requirements under FED. R. CIV. P. 5(b)(2)(E).

/s/ Thomas L. Taylor III  
Thomas L. Taylor III

	Since Inception	Q2 2019
<b>Income</b>		
<b>Business Income</b>		
BEC Income	48,483.30	3,067.89
BOG Income	252,451.38	30,378.12
Crude Income	23,314.54	22,580.97
Business Income - Other	433,849.00	64,414.04
<b>Total Business Income</b>	758,098.22	120,441.02
Cash and Equivalents	795,247.77	0.00
Interest/Dividend Income	0.00	0.00
Business Asset Liquidation	0.00	0.00
Personal Asset Liquidation	52,000.00	0.00
3rd Party Litigation Income	0.00	0.00
<b>Misc./Other Income</b>		
<b>SEC Settlements</b>		
Jacob Herrera Settlement	25,000.00	12,500.00
Jetmir Ahmedi Settlement	155,000.00	0.00
Tamra Freedman Settlement	52,752.23	0.00
SEC Settlements - Other	0.00	0.00
<b>Total SEC Settlements</b>	232,752.23	12,500.00
Misc./Other Income - Other	210,000.00	0.00
<b>Total Misc./Other Income</b>	442,752.23	12,500.00
<b>Total Income</b>	2,048,098.22	132,941.02
<b>Cost of Goods Sold</b>		
Cost of Goods Sold	0.00	0.00
<b>Total COGS</b>	0.00	0.00
<b>Gross Profit</b>	2,048,098.22	132,941.02
<b>Expense</b>		
<b>Receivership Operations</b>		
Disb.to Receiver/Other prof		
Carole Faulkner Atty Fee Award	-128,132.00	-128,132.00
Disb.to Receiver/Other prof - Other	968,441.50	192,588.98
<b>Total Disb.to Receiver/Other prof</b>	840,309.50	64,456.98
<b>Business Asset/Operating</b>		
Admin	1,576.20	1,538.20
Bank Fees	12.00	0.00
Contract Labor	92,141.09	13,727.50

	Since Inception	Q2 2019
Court Fees	276.60	0.00
Discovery Expenses	17,335.15	5,195.61
Joint Interest Billing/AFE	48,279.51	4,681.05
Postage	3,815.00	604.84
Receivership Website	182.13	0.00
Travel Expenses	9,308.99	2,032.46
Business Asset/Operating - Other	3,680.20	0.00
<b>Total Business Asset/Operating</b>	<b>176,606.87</b>	<b>27,779.66</b>
Personal Asset Expenses	1,460.00	-491.00
Investment Expenses	0.00	0.00
3rd Party Lit. Expenses	1,887.72	0.00
Tax Administrator Fees/Bond	0.00	0.00
Federal/State Taxes		
Asset Property Taxes	93.87	0.00
Federal/State Taxes - Other	0.00	0.00
<b>Total Federal/State Taxes</b>	<b>93.87</b>	<b>0.00</b>
Receivership Operations - Other	0.00	0.00
<b>Total Receivership Operations</b>	<b>1,020,357.96</b>	<b>91,745.64</b>
Disb. for Distribution		
Distrib. Plan Development	5,936.22	5,936.22
Distrib. Plan Implementatio	0.00	0.00
Disb. for Distribution - Other	0.00	0.00
<b>Total Disb. for Distribution</b>	<b>5,936.22</b>	<b>5,936.22</b>
Disbursements to Court	0.00	0.00
Disbursements to Claimants	0.00	0.00
Payroll Expenses	0.00	0.00
<b>Total Expense</b>	<b>1,026,294.18</b>	<b>97,681.86</b>
<b>Net Income</b>	<b>1,021,804.04</b>	<b>35,259.16</b>