

1ST CIRCUIT COURT
STATE OF HAWAII
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Attorney for Co-Receivers
REBECCA S.P. YEE and BENJAMIN T. FUJIMOTO

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of Consumer Protection,)	Civil No. 05-1-1356-07 (SSM)
)	(Other Civil Action)
)	
Plaintiff,)	SUMMARY OF ACTIVITIES OF CO-
)	RECEIVERS REBECCA S.P. YEE AND
vs.)	BENJAMIN T. FUJIMOTO THROUGH
)	NOVEMBER 30, 2006
PACIFIC EDUCATIONAL SERVICES)	
COMPANY, a Nevada corporation dba)	
Hawaii College of Pharmacy; DENISE A.)	
CRISWELL aka Deedee Criswell aka DeDe)	Judge: The Honorable Sabrina S. McKenna
Criswell aka Denise Criswell Nakajima and)	
DAVID CHAMPION MONROE fka David)	Trial Date: May 14,2007
Yacas,)	
)	SCF:None
Defendants.)	
_____)	

**SUMMARY OF ACTIVITIES OF CO-RECEIVERS REBECCA S.P. YEE AND
BENJAMIN T. FUJIMOTO THROUGH NOVEMBER 30,2006**

Rebecca S.P. Yee and Benjamin T. Fujimoto, duly appointed Co-Receivers (the
“Co-Receivers”), by order of this Court entered herein September 21,2005, hereby
submit their Summary of Activities through November 30,2006.

Leased Office Space

Pacific Educational Services (PES) had 3 leases with Campbell Estate and 2 sub-leases with *Bank* of Hawaii. We were able to negotiate a security deposit return of \$13,571 from Bank of Hawaii. We were not able to negotiate a return from Campbell Estate.

Contents of Leased Office Space

All PES furniture and equipment were sold at an auction for net proceeds of \$68,463. The 2004 Solara used by Dean Hamman Hassan was sold to Servco Pacific in April 2006 for \$14,500.

Asset Recovery Activity

The agreement with Kapolei Property Development for the purchase of lot 63 in Kapolei was terminated and the \$200,000 deposit was refunded and deposited in Merrill Lynch in May.

PES paid \$30,000+ for the office furniture which was in the possession of the dealer. The dealer claimed that it is still owed the shipping costs on the furniture. Efforts to resell the furniture were unsuccessful and due to the dealer's move to a smaller warehouse, most of the items were discarded.

The following are recovery activities taken on assets identified thru the efforts of Office of Consumer Protection (OCP):

- Requested Wells Fargo Bank in Nevada to remit amounts in the name of David Monroe. We have stopped further collection efforts on this.

- Requested University of Kentucky Federal Credit Union to remit \$9,116.20 in the name of Denise Criswell. We have stopped further collection efforts on this.
- Closed sale of Denise Criswell's Kapolei condo on March 10 for net sales proceeds of \$192,829.25 (after payoff of mortgage balance and related closing costs) along with \$500 received from the buyer to purchase the furnishings. Proceeds were deposited into a segregated interest bearing bank account subject to court finding regarding the disposition of the funds. Form 1099-S (Proceeds from Real Estate Transactions) was filed with the IRS by escrow showing that PES received gross proceeds of \$357,500 from the sale. There is potential tax consequence on sale of condo as PES has no cost basis on the condo.
- William Nassar & Associates (WNA) and Pacific West Coast Development, LLC (PWCD) was paid \$254,565 and \$325,000 respectively for services they provided. After several rounds of response and follow-up letters, we have agreed to settle by allowing both firms to apply the remaining retainers to outstanding invoices in the approximate amounts of \$13,000. WNA refunded the remaining retainer of \$161,149 in October 2006 which was deposited in the Bank of Hawaii operating account.
- Obtained from OCP, list of mainland properties under name of defendants. Conducted title and lien searches to assist in evaluation of the cost/benefit of pursuing properties in Nevada and Kentucky. It was determined that further efforts and successful seizure/sale would be difficult and require a significant amount of time and resources. Discontinued pursuit of mainland properties

- A refund check for \$25,522 from American Dental Education Association was received and deposited in Merrill Lynch in May.
- Received information that David Monroe previously had an account with Edward Jones Investments and had made a transfer to National Financial Services Corporation. Stopped further investigating into this matter.

A total of \$1,771,322 was recovered thru November 30,2006 and includes the above mentioned items as well as \$976,452 transferred from various Smith Barney investment accounts that PES had established.

Administrative Activities

The June activity report showed that \$6,567,290 was received from students in tuition and fees. Four exhibits were included with the June report providing a detailed accounting of net tuition and fees paid by students compiled from data obtained from PES' Quickbooks accounting system. There were discrepancies among inter-related Quickbook accounts of amounts billed and paid by students. Differences in count and amount in student payments with data that OCP had compiled were reviewed and reconciled.

A preliminary balance sheet as of August 2,2005 and preliminary statement of cashflow from inception up thru August 2,2005 were included as exhibits to our May report. The information for these statements was compiled from data obtained from PES' Quickbooks accounting system. The statement balances per Quickbooks were adjusted to reflect bank reconciliation items such as outstanding checks recorded on Quickbooks but

not cashed by the bank and debit and credit items posted to the bank account but not recorded on Quickbooks. August 2,2005 is the cutoff date for the preliminary statements as that was the last transaction entry date noted on Quickbooks.

The preliminary statement of funds provided by operations shows that PES had total revenue of \$6,597,319 and disbursed \$4,236,103 for various expenses resulting in an excess of \$2,361,217 of funds provided from operations. These funds were used as follows:

Funds used for:

Investments in Smith Barney	1,069,582
Loan to Hawaii College of Dental Medicine	372,000
Fixed Assets	435,027
Various Deposits	285,674
Subscriptions for Library	107,239
Advances to employees	63,805
Prepaid Insurance	41,694
Other Loans	3,000
Loan to Employees	1,300
Loan - JPW Mortgage, LLC	925
Undeposited Funds	100
Other prepaid expenses	<u>30</u>
Total funds used	<u>2,380,377</u>

We are still waiting for a response from Smith Barney CitiGroup to our letter sent in May 2006 re discrepancies we noted in the investment statements they provided to PES for the months of May thru July 2005. We as well as OCP have contacted them several times to follow-up on the matter.

It appears that no federal income tax return was filed for 2004 and 2005.

Insurance Policies

Executive Risk Indemnity Inc. (a member of the Chubb Group of Insurance Companies) issued a \$1 million Directors and Officers Liability claims made policy to PES. The policy period was from December 21, 2004 to December 21, 2005. Under the terms of the policy, the limit of liability to pay damages or settlements will be reduced by defense costs. Legal counsel and OCP had filed a claim against the policy. However, the federal court issued a decision in favor of the insurer in August 2006. Consequently, we, along with OCP, are in settlement discussions with attorneys representing PES, Monroe and Criswell.

Bank of Hawaii & Merrill Lynch Cash Balance

The balances in the Bank of Hawaii savings account and segregated account were transferred to higher interest bearing accounts with Merrill Lynch during May.

The total cash and investments as of November 30, 2006 in Bank of Hawaii and Merrill Lynch accounts was \$1,523,089.

The balance in the Merrill Lynch account #145-02339 as of November 30, 2006 was \$1,010,382. There was \$197,556 as of November 30, 2006 in the Merrill Lynch segregated account #145-02340 established per court order to hold the net proceeds from the sale of the condo previously mentioned. The balance in the Bank of Hawaii operating account #0003-234525 as of November 30, 2006 was \$315,151.

The summary of activity in the Bank of Hawaii “working” account is as follows:

Bank of Hawaii Operating Acct # 0003-234525
September 30,2005 to November 30,2006

Beginning balance	
Transfer from Smith Barney	976,452
Transfers from old accts	42,601
Various deposits	334,202
Interest income	242
Transfer to savings acct	(751,250)
Receiver fees & expenses	(152,813)
Fees to legal counsel	(123,326)
Other check disbursements	(10,579)
Bank charges	(377)
Ending balance at 11/30/06	<u><u>315,151</u></u>

Respectfully submitted,

Honolulu, Hawaii, December 13,2006.



REBECCA S.P. YEE

Co-Receiver



BENJAMIN T. FUJIMOTO

Co-Receiver