

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
	)	AUGUST 31,2006
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 AUGUST 31,2006**

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 August 31,2006.

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. Collection still pending.

- Requested University of Kentucky Federal Credit Union to remit \$9,116.20 in the name of Denise Criswell Collection still pending.
- Closed sale of Denise Criswell's Kapolei condo on March 10 for net sales proceeds of \$192,829.25 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. Nakajima claimed he paid mortgage and related expenses to preserve his credit rating. We are negotiating with him to reimburse expenses directly relating to the preservation of the Kapolei condo prior to the sale. 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. Need to evaluate potential tax consequence on sale of condo as PES has no cost basis on the condo.
- Prepared and sent letters to William Nassar & Associates (**WNA**) and Pacific West Coast Development, LLC (**PWCD**) requesting further support for **\$254,565** and \$325,000 that PES paid them respectively for services they provided. We were unable to locate documentation in PES' files to support the payments. Received response letters and supporting documents from **WNA** dated January 13, 2006 and from **PWCD** dated February 13, 2006. Reviewed response letters and supporting material provided to ascertain if they adequately supported the billings. Prepared and sent follow-up letters to **WNA** and **PWCD** to provide further support and explanations on matters included in their response letters. Received a follow-up response from **WNA** on March 20, 2006 where he confirms

that \$174,460 of the \$254,565 paid to WNA remains in his Trust Account. Waiting for response back from PWCD.

- 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. Investigating further to identify if there are **any** assets to freeze and seize.

Administrative Activities

The summary below shows 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 are discrepancies among inter-related Quickbook accounts of amounts billed and paid by students that are being further analyzed. Differences in count and amount in student payments with data that OCP had compiled were reviewed and reconciled.

Summary of Amounts Paid by Students & Applicants

	<u>Count</u>	<u>Amount</u>	
Students who paid \$28,550 in tuition & fees	32	913,600	Exhibit 1
Students who paid \$26,550 in tuition & fees	207	5,495,850	Exhibit 2
Applicants who paid \$1000 deposit	78	78,000	Exhibit 3
Students & applicants who paid the \$80 application fee	998	79,840	Exhibit 4
Total		6,567,290	

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.

Further review and analysis of the Quickbooks data is being performed to identify potential additional sources of asset recovery and gain a better understanding of how the funds were spent. Supplemental schedules will be provided based on the on-going analysis to provide further details of major fund inflows and cash disbursements.

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**.

Evaluate tax issues regarding filing of federal and state tax returns for **2004** and **2005**. Appears that no federal income tax return was filed for **2004**.

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 August 31,2006 in ~~Bank~~ of Hawaii and Merrill Lynch accounts was \$1,380,487. The projected annual interest income from the funds held at Merrill Lynch based on current yields approximated \$54,000.

The balance in the Merrill Lynch account #145-02339 as of August 31,2006 was \$997,859. There was \$195,007 as of August 31,2006 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 August 31,2006 was \$187,621.

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 August 31,2006

Beginning balance	
Transfer from Smith Barney	976,452
Transfers from old accts	42,601
Various deposits	172,179
Interest income	182
Transfer to savings acct	(751,250)
Receiver fees & expenses	(140,143)
Fees to legal counsel	(104,940)
Other check disbursements	(7,086)
Bank charges	(375)
Ending balance at 7/31/06	<u>187,621</u>

Pending Asset Recovery Items

- Denise Criswell's account in University of Kentucky Federal Credit Union for \$9,116
- David Monroe's account in Wells Fargo **Bank** in Nevada (**amount** unknown)
- David Monroe's alleged account in National Financial Services Corporation (amount unknown)

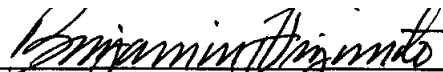
Respectfully submitted,

Honolulu, Hawaii, September 13,2006.



REBECCA S.P. YEE

Co-Receiver



BENJAMIN T. FUJIMOTO

Co-Receiver

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Attorney for Co-Receivers

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of	)	CIVIL NO. 05-1-1356-07 SSM
Consumer Protection,	)	(Other Civil Action)
)	
Plaintiff,	)	CERTIFICATE OF SERVICE
)	
vs.)	
)	
PACIFIC EDUCATIONAL SERVICES)	
COMPANY, a Nevada corporation dba)	
Hawaii College of Pharmacy; DENISE)	
A. CRISWELL aka Deedee Criswell)	
aka DeDe Criswell aka Denise)	
Criswell Nakajirna and DAVID)	
CHAMPION MONROE fka David)	
Yacas,)	
)	
Defendants.)	
_____)	

CERTIFICATE OF SERVICE

TO: JEFFREY E. BRUNTON
Office of Consumer Protection
State of Hawaii
235 South Beretania Street, Suite 801
Attorney for Plaintiff

PACIFIC EDUCATIONAL SERVICES COMPANY
P.O. Box 43285
Louisville, KY 40253
Defendant

DENISE A. CRISWELL
P.O. Box 43285
Louisville, KY 40253
Defendant

DAVID C. MONROE
P.O. Box 43285
Louisville, KY 40253
Defendant

SIDNEY K. AYABE,
Ayabe Chong Nishimoto Sia & Nakamura
Pauahi Tower
1001 Bishop Street, Suite 2500
Honolulu, HI 96813
Attorney for Defendants

The undersigned hereby certifies that a filed-stamped copy of the **SUMMARY OF ACTIVITIES OF CO-RECEIVERS REBECCA S.P. YEE AND BENJAMIN T. FUJIMOTO THROUGH AUGUST 31, 2006** will be served on the foregoing parties at the addresses listed above by depositing same in the U.S. mail, postage prepaid.

DATED: Honolulu, Hawaii; September 18, 2006.



DAVID C. FARMER