

1 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
2 DAVID R. ZARO (BAR NO. 124334)
TIM C. HSU (BAR NO. 279208)
3 515 South Figueroa Street, Ninth Floor
Los Angeles, California 90071-3309
4 Phone: (213) 622-5555
Fax: (213) 620-8816
5 E-Mail: dzaro@allenmatkins.com
thsu@allenmatkins.com

6 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
7 EDWARD G. FATES (BAR NO. 227809)
8 One America Plaza
600 West Broadway, 27th Floor
9 San Diego, California 92101
Phone: (619) 233-1155
10 Fax: (619) 233-1158
E-Mail: tfates@allenmatkins.com

11 Attorneys for Receiver
12 WILLIAM J. HOFFMAN

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**

16 SECURITIES AND EXCHANGE
17 COMMISSION,

18 Plaintiff,

19 v.

20 NATIONWIDE AUTOMATED
SYSTEMS, INC.; JOEL GILLIS; and
21 EDWARD WISHNER,

22 Defendants,

23 OASIS STUDIO RENTALS, LLC;
24 OASIS STUDIO RENTALS #2, LLC; and
OASIS STUDIO RENTAL #3, LLC,

25 Relief Defendants.
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Case No. CV-14-07249-SJO (FFMx)

**RECEIVER'S SEVENTEENTH
INTERIM REPORT AND
RECOMMENDATIONS**

Ctrm: 10C
Judge: Hon. S. James Otero

1 William Hoffman ("Receiver"), the Court-appointed receiver for Defendant
2 Nationwide Automated Systems, Inc. ("NASI"), Relief Defendants Oasis Studio
3 Rentals, LLC, Oasis Studio Rentals #2, LLC, and Oasis Studio Rentals #3, LLC
4 ("Relief Defendants"), and their subsidiaries and affiliates, including Studios Maui
5 Productions, LLC dba Akamai RV ("Receivership Entities"), hereby submits this
6 seventeenth report on his activities and findings to date, as well as his
7 recommendations for the continued administration of the receivership estate
8 ("Report"). This Report focuses on the Receiver's activities during the third quarter
9 of 2018.

10 **I. EXECUTIVE SUMMARY**

11 The Receiver has continued to carry out his duties under the Court's
12 Preliminary Injunction Order, including taking necessary and appropriate actions to
13 secure, preserve, and protect the assets of the Receiverships Entities. The Receiver
14 has also continued operations of NASI's ATM business, as authorized by the Court.
15 As previously discussed, the ATM business generates a steady, but modest amount
16 of revenue.

17 As he did in the second quarter of 2018, the Receiver spent significant time in
18 the third quarter on (a) pursuing Clawback Claims (as defined below) in the form of
19 demand letters, Court-authorized settlements, and complaints filed against investors
20 and other third parties who received profits from the Ponzi scheme ("Net Winners");
21 (b) efforts to identify, recover, and protect the assets of the Oasis Studio Rentals
22 entities and their affiliates, including efforts to recover amounts owed to the entities
23 or transferred from them to third parties; (c) communication with investors and
24 reviewing documents provided, (d) reviewing and revising accounting necessary for
25 Clawback Claims, and (e) reviewing and analyzing investor financial hardship
26 applications and supporting financial documents, and (f) providing accounting and
27 document support for the ongoing litigation against City National Bank and related
28 parties. In addition, the Receiver spent significant time implementing the Court-

1 approved claim procedures, including locating and providing notices to investors
2 whose current addresses were not in NASI's books and records, and reviewing and
3 analyzing investor claims.

4 The Receiver has also continued his forensic accounting and investigation as
5 necessary and appropriate to identify assets and potential claims to recover investor
6 profits, referral fees, and other transfers to third parties ("Clawback Claims"). In
7 April 2015, the Receiver obtained authority from the Court to pursue Clawback
8 Claims, as well as approval of proposed procedures for such claims. To date, the
9 Receiver has resolved claims in favor of the receivership estate against 410 Net
10 Winners (357 settlements without a complaint filed, 36 settled after a filed
11 complaint, 15 judgments and 2 bankruptcies after judgments/settlement) for a total
12 recovery to the receivership estate of \$39,191,815, with another \$138,678 due in
13 installment payments.

14 Recoveries from Net Winners, through the pursuit of Clawback Claims, will
15 make up the majority of what is available to distribute to investors from the
16 receivership estate (other than what is distributed through the proposed class
17 settlement with City National Bank). Accordingly, the pursuit of Clawback Claims,
18 which to date has been very successful, should continue to be a primary focus.

19 As discussed below, the Receiver recommends the receivership remain in
20 place as he continues to manage the ATM operations, investigate and recover assets,
21 pursue Clawback Claims and settlements as necessary and appropriate, all with the
22 goal of maximizing the value in the receivership estate for the benefit of investor
23 victims.

24 **II. ATM OPERATIONS**

25 The Receiver has continued operations of the NASI ATM machines, which
26 consist of 95 ATMs operating at various hotels and other locations around the
27 country and 144 non-operating ATMs that are outdated or need substantial repairs.
28 Further, the Receiver's staff has continued business relationships with the ATM

1 service vendors and the ATM locations to maximize the revenue into the
2 receivership estate.

3 Revenue and expenses from ATM operations vary on a monthly basis
4 depending on the amount of transactions for each ATM. During the third quarter,
5 11 ATMs were removed from hotel and other locations due to terminated leases and
6 age of the ATM machines. The costs of upgrading these ATM machines would
7 likely exceed the revenue from them, so the Receiver determined not to upgrade
8 them.

9 Gross revenues for July, August and September 2018 were \$73,921, \$74,082
10 and \$60,745, respectively. The monthly net income from ATM operations (after
11 payments to the ATM servicers and locations) were \$5,053, \$2,936 and \$616,
12 respectively, for a total of \$8,605. The average monthly net income for the quarter
13 was \$2,868.33.

14 The revenue and net income is seasonal and is substantially higher during the
15 second and third quarters as compared to the first and fourth quarters. This is due to
16 higher demand resulting from summer vacations and travel. Based on prior seasonal
17 trends and increase in ATM repair and replacement costs, net revenue will likely
18 decrease to a negative net revenue during the fourth quarter. As a result, the
19 Receiver has marketed the remaining ATMs for sale and is currently negotiating
20 sale terms with a prospective buyer. The Receiver will file a motion for approval of
21 the sale once an agreement has been signed.

22 **III. FORENSIC ACCOUNTING**

23 The Preliminary Injunction Order requires the Receiver to "make an
24 accounting, as soon as practicable, to the Court and the SEC of the assets and
25 financial condition of Defendant Nationwide Automated Systems, Inc." Dkt.
26 No. 42, Part XII.E. Accordingly, the Receiver has undertaken to perform such an
27 accounting. The Receiver has made progress in the review of available financial,
28

1 accounting and banking records to reconstruct transactions of NASI, the Oasis
2 Entities and other affiliated entities.

3 Reconstruction of financial and accounting documents is a central task (a) to
4 determine who received funds from the Receivership Entities and how much they
5 received, (b) to prepare necessary tax filings, (c) to determine the proper amount of
6 profits of investors, and (d) determine the proper amounts of losses of investors.
7 The Receiver's accounting personnel has worked diligently to create an accurate
8 check register showing the checks paid by NASI to investors that cleared, not
9 bounced, which is a critical and time-consuming task.

10 Due to the large size and length of time the Ponzi scheme operated, an
11 enormous amount of information is required to be traced and verified. Reliable
12 information about NASI's check register and similar information was either not
13 available or not accurate, which required the Receiver's accounting personnel to
14 reconstruct the ledger of transactions. Information from bank statements and
15 cleared checks were used to create a schedule of checks paid by NASI to investors.
16 On average, over 2,000 checks were paid by NASI to investors on a monthly basis
17 in 2014.

18 In addition to the ongoing accounting of transactions in order to pursue
19 Clawback Claims against select investors and third parties, the Receiver's staff
20 compiled schedules for identified losing investors and mailed them to investors
21 pursuant to the approved Claims Process. The Receiver will continue to complete
22 the forensic accounting required to pursue Clawback Claims for investor profits,
23 referral fees, and other transfers, as well as the investor loss analysis.

24 **IV. PENDING CLAWBACK CASES**

25 As discussed above, the Receiver has resolved claims in favor of the
26 Receivership Estate against 410 Net Winners (357 settlements without a complaint
27 filed, 36 settled after a filed complaint, 15 judgments and 2 bankruptcies after
28 judgments/settlement) for a total recovery to the receivership estate of \$39,191,815,

1 with another \$138,628 due in settlement payments still to be made. Another
2 131 demand letters to Net Winners are currently outstanding. The rate of
3 settlements prior to a complaint being filed in relation to total demand letters sent to
4 Net Winners is very high – 63.6% (357 settlements without a complaint being filed
5 and 36 settlements after a complaint was filed). Of course, not all Net Winners
6 accept the Court-approved settlement proposal included in the demand letter and
7 therefore complaints must be filed. To date, 68 complaints have been filed and 6
8 cases remain active.

9 Overall, the rate of cases filed (68) in relation to total expired demand letters
10 (including settlements and outstanding demands) is remarkably low – only 11.1%.
11 Further, the rate of currently active cases (6) in relation to total claims is even
12 lower – only 1.0%. Accordingly, the Receiver's pursuit of Clawback Claims has not
13 only been very successful to date, but has also been extremely efficient.

14 **V. CLAIMS AGAINST CITY NATIONAL BANK**

15 For almost the entire duration of the NASI Ponzi scheme, which started in the
16 late 1990s, the company ran its banking transactions through accounts at City
17 National Bank ("CNB"). In addition, at least two CNB executives invested, directly
18 or through a related entity, in NASI and therefore became familiar with NASI's
19 operations and purported investment returns. In light of these facts, the Receiver
20 has gathered documents and investigated potential claims against City National
21 Bank.

22 On May 4, 2016, the Court approved the Receiver's engagement of Newhouse
23 Law Group and Girardi | Keese LLP as co-special counsel to represent the Receiver
24 in pursuing claims against CNB and related parties. Dkt. No. 150. On June 21,
25 2016, the Receiver filed his complaint against CNB, Royal Bank of Canada, a
26 Canadian bank, Patrick Brian Fitzwilliams, and Betty Saleh Fitzwilliams in Los
27 Angeles Superior Court. As previously communicated to this Court, for efficiencies'
28 sake, Special Counsel has continued to work closely and coordinate efforts with

1 Class Counsel in the matters of *Payne v. City National Bank*, *Madison v. City*
2 *National Bank*, and *Allison v. City National Bank*. On September 30, 2017, a class-
3 action complaint was filed by non-California investors in federal court in New York,
4 styled as *Wilinsky et al. v. City National Bank, NA, et al.*, Case 1:17-cv-07463-JGK.

5 On November 17, 2016 and February 2, 2018, the Receiver and Special
6 Counsel attended a global mediation with CNB, counsel representing the investors,
7 and the other parties in the related actions before the Los Angeles Superior Court.
8 The parties continued to negotiate settlement terms through the mediator, the Hon.
9 Carl West (Ret.), over several months until the basic terms of a global class
10 settlement were reached and then eventually documented and executed, subject to
11 Court approval.

12 The Receiver's motion for approval of the settlement (Dkt. No. 287) was filed
13 on August 2, 2018, and an Order was issued by this Court on October 3, 2018 (Dkt.
14 No. 299). The motion for preliminary approval of the settlement filed in the Los
15 Angeles Superior Court was heard on August 30, 2018 and an Order filed the same
16 day (the Order was E-Served on September 11, 2018) (*Madison v. City National*
17 *Bank was consolidated into Payne v. City National Bank*).

18 **VI. POST-RECEIVERSHIP RECEIPTS AND DISBURSEMENTS**

19 At the time the Receiver was appointed on September 30, 2014, NASI had
20 approximately \$461,000 in cash. Since then, the balance in the receivership estate
21 has grown rapidly, primarily due to recoveries through Clawback Claims. By the
22 end of 2015, the balance had increased to \$5,695,473, by the end of 2016, the
23 balance had grown to \$27,893,271, and by the end of 2017, the balance had grown
24 to \$35,919,846.

25 During the third quarter of 2018, (a) business operations received positive
26 cash flow of \$8,605 (total business income of \$208,748 minus total business
27 expenses of \$200,429), (b) the Receiver obtained a total of \$107,132 from Clawback
28 Claims, (c) interest received of \$21,008 were received for Receivership funds

1 deposited, and (d) disbursements totaling \$408,635 were paid to the Receiver, his
2 counsel, and other professionals for Court-approved fees and expenses incurred
3 during the first quarter of 2018 (their fourteenth fee applications, which were
4 approved during the third quarter), resulting in an ending balance of \$36,121,668, as
5 of September 30, 2018. A Standardized Fund Accounting Report is attached hereto
6 as Exhibit A.

7 In addition, the Receiver has already had recoveries from Clawback
8 settlements in October, November, and December 2018. An additional \$319,524
9 has been recovered.

10 **VII. INVESTOR COMMUNICATIONS**

11 The Receiver has taken many steps to inform investors about the receivership,
12 including establishing a website (www.nasi-receivership.com), two dedicated
13 telephone lines (858-242-1161 and 858-242-1166), and a dedicated e-mail address
14 (receiver@nasi-receivership.com). The website is designed to be investors' primary
15 source of information about the receivership and provides basic information about
16 receiverships, answers to commonly asked questions, status updates, pleadings filed
17 in the case, and Court orders. In addition, the website has an investor questionnaire
18 designed to obtain information from investors, including their contact information,
19 investment amounts, ATM locations, and price paid per ATM. The investor
20 questionnaire is a cost-effective method of obtaining information from investors,
21 which the Receiver can then cross-reference and confirm or supplement with
22 existing information. Thus far, more than 1,300 investor questionnaire submissions
23 have been made via the Receiver's website. The Receiver will continue to update
24 the receivership website and review information and documents provided by
25 investors. The Receiver's staff will also continue to monitor the Receivership's
26 voicemail line, email address, fax line, and website questionnaires and respond
27 accordingly. Investors are reminded to promptly contact the Receiver's office and
28 provide their new contact information if their contact information changes.

1 As discussed above, the Receiver continues to devote considerable time and
2 focus to the pursuit of Clawback Claims. Additionally, on January 9, 2018, the
3 Receiver filed a renewed motion for approval of procedures for the administration of
4 claims of investors with net losses from the Ponzi scheme (as well as the claims of
5 other creditors). Dkt. No. 247. The motion was granted on February 7, 2018. Dkt.
6 No. 256. On March 8, 2018, pursuant to the approved claim procedures, the
7 Receiver sent notices to investors and creditors with detailed instructions regarding
8 the claims process.

9 In an effort to efficiently update investors and decrease the calls and emails
10 from investors seeking to confirm receipt of their submitted claims, the Receiver has
11 posted a list of claims received from investors on the Receiver's website, [www.nasi-](http://www.nasi-receivership.com)
12 receivership.com, under the "Claims Admin." tab. The list of received claims will
13 only reference the claims number with no other identification information and will
14 be updated periodically. Investors are encouraged to review the Receiver's website
15 for updates instead of calling and emailing the Receiver (and Receiver's staff) for
16 updates or confirmations.

17 **VIII. RECOMMENDATIONS**

18 The Receiver recommends the receivership continue and his investigation and
19 accounting be allowed to proceed.

20 **A. ATM Operations**

21 As discussed above, the ATM operations generated minimal net revenue
22 (\$403 per month) during the third quarter. The net revenue has been declining
23 steadily due to the age of some of the ATM machines (more and more of which are
24 obsolete), and the Receiver does not expect that trend will materially change.
25 Accordingly, the Receiver has reviewed and compiled due diligence materials, and
26 marketed the remaining ATM portfolio to potential buyer(s), and upon the
27 acceptance of the best offer to the receivership estate, the Receiver will file a
28 Motion with the Court seeking approval of the sale.

1 **B. Clawback Claims**

2 The Court has authorized the Receiver to pursue Clawback Claims and
3 approved the Receiver's proposed procedures for prosecuting such claims. As
4 discussed above, recoveries from Clawback settlements have been very successful
5 to date. The Receiver will continue to pursue such claims and file complaints
6 against profiting investors who choose not to accept the Court-approved settlement
7 offer.

8 **C. Claims Process**

9 As noted above, the Court has approved the Receiver's renewed motion for
10 approval of procedures for the administration of investor and creditor claims. The
11 Receiver mailed notices to investors on March 8, 2018, and is diligently working to
12 (1) locate and provide notices to investors whose claims notices were returned
13 and/or not delivered, (2) take inventory of Claims Submission Forms and supporting
14 documents provided by investors to the Receiver, (3) communicate with investors to
15 confirm the Receiver's receipt of documents from investors and to answer questions
16 regarding the claims process. The Receiver will continue his work to process claims
17 and resolve as many disputed claims as possible through communications with
18 investors and creditors, which is expected to be complete before the end of the year.
19 The Receiver will then file his motion for approval of proposed allowed claim
20 amounts and advise the Court regarding the status and number of disputed claims.

21 **D. Distributions**

22 In connection with seeking approval of proposed allowed claim amounts, the
23 Receiver will request approval of a plan of distributing receivership estate assets to
24 investors and creditors with allowed claims and request authorization to make
25 interim distributions pursuant to the plan.

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1 **IX. CONCLUSION**

2 Based on the foregoing, the Receiver requests an order approving this Report
3 and his recommendations discussed above.

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5 Dated: December 21, 2018

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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7 By: _____ /s/ Edward Fates

8 EDWARD G. FATES
9 Attorneys for Receiver
10 William Hoffman
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EXHIBIT A

STANDARDIZED FUND ACCOUNTING REPORT for
Equity Receivership over Nationwide Automated Systems, et al. - Cash Basis
Receivership; Civil Court Docket No. 44
Reporting Period 07/01/2018 through 09/30/2018

Fund Accounting (See Instructions):

		<u>Detail</u>	<u>Subtotal</u>	<u>Grand Total</u>
Line 1	Beginning Balance (As of 09/01/2018)	\$ 36,393,844		
	Increases in Fund Balance			
Line 2	Business Income	\$ 208,748		
Line 3	Cash and Securities			
Line 4	Interest/Dividend Income	\$ 21,008		
Line 5	Business Asset Liquidation			
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	\$ 107,132		
Line 8	Miscellaneous - Other			
	Total Funds Available (Lines 1-8)			\$ 36,730,733
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors			
Line 10	Disbursements to Receivership Operations			
Line 10a	<i>Disbursements to Receiver or Other Professionals</i>	\$ (408,635)		
Line 10b	<i>Business Asset Expenses</i>	\$ (200,429)		
Line 10c	<i>Personal Asset Expenses</i>			
Line 10d	<i>Investment Expenses</i>			
Line 10e	<i>Third-Party Litigation Expenses</i>			
	1. Attorney Fees			
	2. Litigation Expenses			
	<u>Total Third-Party Litigation Expenses</u>			
Line 10f	<i>Tax Administrator Fees and Bonds</i>			
Line 10g	<i>Federal and State Tax Payments</i>			
	Total Disbursements for Receivership Operations		\$ (609,065)	
Line 11	Disbursements for Distribution Expenses Paid by the Fund			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees			
	Fund Administrator			
	Distribution Agents			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	<u>Total Plan Development Expenses</u>			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agents			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution			
	(FAIR) Reporting Expenses			
	<u>Total Plan Implementation Expenses</u>			
	Total Disbursements for Distribution Expenses Paid by the Fund			

	<u>Detail</u>	<u>Subtotal</u>	<u>Grand Total</u>
Line 12	Disbursements to Court/Other:		
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees		
Line 12b	Federal Tax Payments		
	Total Disbursements to Court/Other:		
	Total Funds Disbursed (Lines 9-11):		<u>\$ (609,065)</u>
Line 13	Ending Balance (As of 09/30/2018)		<u>\$ 36,121,668</u>
Line 14	Ending Balance of Fund - Net Assets		
Line 14a	Cash & Cash Equivalents	\$ 36,121,668	
Line 14b	Investments		
Line 14c	Other Assets or Uncleared Funds		
	Total Ending Balance of Fund - Net Assets		<u>\$ 36,121,668</u>

Other Supplemental Information:

Report Items NOT To Be Paid by the Fund:

Line 15 Disbursements for Plan Administration Expenses Not Paid by the Fund:

- Line 15a Plan Development Expenses Not Paid by the Fund:
1. Fees
 - Fund Administrator
 - IDC
 - Distribution Agents
 - Consultants
 - Legal Advisors
 - Tax Advisors
 2. Administrative Expenses:
 3. Investor Identification:
 - Notice/Publishing Approved Plan
 - Claimant Identification
 - Claims Processing
 - Web Site Maintenance/Call Center
 4. Fund Administrator Bond
 5. Miscellaneous
 6. FAIR Reporting Expenses

Total Plan Implementation Expenses Not Paid by the Fund

Line 15c Tax Administrators Fees & Bonds Not Paid by the Fund

Total Disbursements for Plan Administration Expenses Not Paid by the Fund

Line 16 Disbursements to Court/Other Not Paid by the Fund:

- Line 16a Investment Expenses/CRIS Fees
- Line 16b Federal Tax Payments

Total Disbursements to Court/Other Not Paid by the Fund

Line 17 DC & State Tax Payments

Line 18 No. of Claims:

- Line 18a # of Claims Received This Reporting Period
- Line 18b # of Claims Received Since Inception of Fund

Line 19 No. of Claimants/Investors:

- Line 19a # of Claimants/Investors Paid This Reporting Period
- Line 19b # of Claimants/Investors Paid Since Inception of Fund

Receiver:



William J. Hoffman of Trigild, Inc.

Date: December 21, 2018