

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.
26
27
28

Case No. CV-14-07249-SJO (FFMx)

**RECEIVER'S TWENTIETH
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 twentieth 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 second
9 quarter of 2019.

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 also completed the sale of NASI's ATM business, as authorized by the Court (Dkt.
15 No. 341). The sale closed on April 30, 2019.

16 As he did in the first quarter of 2019, the Receiver spent significant time in
17 the second quarter on (a) pursuing Clawback Claims (as defined below) in the form
18 of demand letters, Court-authorized settlements, and complaints filed against
19 investors and other third parties who received profits from the Ponzi scheme ("Net
20 Winners"); (b) communication with investors and reviewing documents provided,
21 (c) reviewing and revising accounting necessary for Clawback Claims, and
22 (d) reviewing and analyzing investor financial hardship applications and supporting
23 financial documents. In addition, the Receiver spent significant time implementing
24 the Court-approved interim distribution of \$31.5 million in receivership estate funds,
25 including updating investor addresses, and processing and issuing distribution
26 checks to those with allowed claims.

27 The Receiver has also continued his forensic accounting and investigation as
28 necessary and appropriate to identify assets and potential claims to recover investor

1 profits, referral fees, and other transfers to third parties ("Clawback Claims"). In
2 April 2015, the Receiver obtained authority from the Court to pursue Clawback
3 Claims, as well as approval of proposed procedures for such claims. To date, the
4 Receiver has resolved claims in favor of the receivership estate against 421 Net
5 Winners (361 settlements without a complaint filed, 43 settled after a filed
6 complaint, 15 judgments and 2 bankruptcies) for a total recovery to the receivership
7 estate of \$39,461,631, with another \$87,628 due in installment payments.

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

13 As discussed below, the Receiver recommends the receivership remain in
14 place as he completes his work to investigate and recover assets, pursues Clawback
15 Claims and settlements as necessary and appropriate, all with the goal of
16 maximizing the value in the receivership estate for the benefit of investor victims.

17 **II. ATM OPERATIONS**

18 During the second quarter of 2019, the Receiver continued operations of the
19 NASI ATM machines until the closing date, April 30, 2019, for the sale of the ATM
20 portfolio.

21 Although the Receivership terminated its ownership of ATMs on April 30,
22 2019 (Close of Escrow), revenue and expenses are reported in the following month
23 resulting in revenue and expenses in May 2019. Gross revenues for April and May
24 2019 were \$51,783 and 48,685, respectively. The monthly net income from ATM
25 operations (after payments to the ATM servicers and locations) were \$1,524 and
26 (4,333), respectively, for a net loss of (2,809). The average monthly net income for
27 the quarter was a loss of (\$1,404).

28

1 The revenue and net income is seasonal and is substantially higher during the
2 second and third quarters as compared to the first and fourth quarters. Nevertheless,
3 the net income has declined to the point where it is either break-even or slightly
4 negative, depending on the season. As a result, the Receiver marketed the
5 remaining ATMs for sale, negotiated and executed a purchase agreement with a
6 proposed buyer, filed a Motion for approval of the sale, which was approved on
7 April 16, 2019. Dkt. No. 341. Escrow closed on the sale of the ATM portfolio on
8 April 30, 2019, and monthly payments for April 2019, the final month the
9 receivership estate was responsible for these payments, were made to ATM
10 locations.

11 **III. FORENSIC ACCOUNTING**

12 The Preliminary Injunction Order requires the Receiver to "make an
13 accounting, as soon as practicable, to the Court and the SEC of the assets and
14 financial condition of Defendant Nationwide Automated Systems, Inc." Dkt.
15 No. 42, Part XII.E. Accordingly, the Receiver has undertaken to perform such an
16 accounting. The Receiver has made progress in the review of available financial,
17 accounting and banking records to reconstruct transactions of NASI, the Oasis
18 Entities and other affiliated entities.

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

26 Due to the large size and length of time the Ponzi scheme operated, an
27 enormous amount of information is required to be traced and verified. Reliable
28 information about NASI's check register and similar information was either not

1 available or not accurate, which required the Receiver's accounting personnel to
2 reconstruct the ledger of transactions. Information from bank statements and
3 cleared checks were used to create a schedule of checks paid by NASI to investors.
4 On average, over 2,000 checks were paid by NASI to investors on a monthly basis
5 in 2014.

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

12 **IV. PENDING CLAWBACK CASES**

13 As discussed above, the Receiver has resolved claims in favor of the
14 receivership estate against 421 Net Winners (361 settlements without a complaint
15 filed, 43 settled after a filed complaint, 15 judgments and 2 bankruptcies) for a total
16 recovery to the receivership estate of \$39,461,631, with another \$87,628 due in
17 settlement payments still to be made. Another 109 demand letters to Net Winners
18 are currently outstanding. The rate of settlements prior to a complaint being filed in
19 relation to total demand letters sent to Net Winners is very high – 63.7% (361
20 settlements without a complaint being filed and 43 settlements after a complaint was
21 filed). Of course, not all Net Winners accept the Court-approved settlement
22 proposal included in the demand letter and therefore complaints must be filed. To
23 date, 68 complaints have been filed and no cases remain active.

24 Overall, the rate of cases filed (68) in relation to total expired demand letters
25 (including settlements and outstanding demands) is remarkably low – only 10.9%.
26 Accordingly, the Receiver's pursuit of Clawback Claims has not only been very
27 successful to date, but has also been extremely efficient.

28

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

2 As previously reported, the parties reached a global settlement of the
3 Receiver's action and the investors' action against City National Bank ("CNB") and
4 related parties, subject to Court approval. The Receiver's motion for approval of the
5 settlement (Dkt. No. 287) was filed on August 2, 2018, and an Order was issued by
6 this Court on October 3, 2018 (Dkt. No. 299). The motion for preliminary approval
7 of the settlement filed in the Los Angeles Superior Court was heard on August 30,
8 2018 and an Order filed the same day (the Order was E-Served on September 11,
9 2018). The hearing for final approval of the settlement was held on January 29,
10 2019 and a Settlement Order and Final Judgment was filed and E-served the same
11 day (*Madison v. City National Bank was consolidated into Payne v. City National*
12 *Bank*).

13 One of the key steps toward completion of the settlement – this Court's entry
14 of an order setting the allowed amount of all investor claims (which claims
15 constitute the class for the class settlement) – occurred on April 25, 2019. Dkt.
16 No. 347. Once the claims approval order issued by this Court became final, the
17 settlement was funded by CNB, including \$33 million going to the class settlement
18 fund, \$550,000 going to the receivership estate on account of the Receiver's claims
19 against Mark Soffa (which claims were dismissed as part of the global settlement)
20 and \$450,000 going to Mark Soffa on account of his claims against CNB (which
21 claims were also dismissed as part of the global settlement). The fees and costs
22 approved by the Los Angeles Superior Court to be paid to Special Counsel
23 representing the Receiver, counsel representing the investors, and the Receiver for
24 his work as administrator for the class settlement were then paid from the class
25 settlement funds.

26 In August 2019, the Receiver, in his capacity as administrator of the class
27 settlement, issued distribution checks to investors with allowed claims from the
28

1 class settlement fund. The total distributed to investors from the class settlement
2 fund was approximately \$22.5 million.

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

4 At the time the Receiver was appointed on September 30, 2014, NASI had
5 approximately \$461,000 in cash. Since then, the balance in the receivership estate
6 has grown rapidly, primarily due to recoveries through Clawback Claims. By the
7 end of 2015, the balance had increased to \$5,695,473, by the end of 2016, the
8 balance had grown to \$27,893,271, by the end of 2017, the balance had grown to
9 \$35,919,846, by the end of 2018, the balance had grown to \$36,082,554, and by the
10 end of the first quarter of 2019, the balance had grown to \$35,947,766.

11 During the second quarter of 2019, (a) business operations had a negative
12 cash flow of \$2,808 (total business income of \$100,468 minus total business
13 expenses of \$103,277), (b) the Receiver obtained a total of \$61,608 from Clawback
14 Claims, (c) the Receiver obtained \$50,000 from the sale of the ATM portfolio, (d)
15 interest of \$7,676 was received for receivership funds deposited, (e) disbursements
16 totaling \$215,703 were paid to the Receiver, his counsel, and other professionals for
17 Court-approved fees and expenses incurred during the fourth quarter of 2018 (their
18 seventeenth fee applications, which were approved during the second quarter 2019),
19 and (f) disbursement of \$3,450 paid in federal and/or state tax. In addition, the
20 Receiver mailed/wired Court-approved distributions in the amount of \$31,498,565,
21 which includes \$12,214,190 in cleared checks/wires to non-priority allowed claims,
22 and \$12,078 in a cleared check to the approved non-investor priority claimant (Alan
23 Broidy), and \$19,272,296 in outstanding (undeposited) checks resulting in an ending
24 balance of \$23,618,820 (as of June 30, 2019). There was one distribution check in
25 the amount of \$1,435 written and mailed after June 30, 2019. A Standardized Fund
26 Accounting Report is attached hereto as Exhibit A.

27
28

1 In addition, the Receiver has already had recoveries in July and August
2 totaling \$629,874 (\$79,874 in Clawback settlements and \$550,000 from the CNB
3 global settlement).

4 **VII. INVESTOR COMMUNICATIONS**

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

23 As discussed above, the Receiver has processed and sent out interim
24 distribution checks to those with allowed claims and is working to identify and
25 resolve delivery issues. Pursuant to the order, the total amount distributed at this
26 time is \$31.5 million.

27
28

1 **VIII. RECOMMENDATIONS**

2 The Receiver recommends the receivership continue and his investigation and
3 accounting be allowed to proceed.

4 **A. ATM Operations**

5 As discussed above, the ATM operations generated a negative revenue
6 (\$2,963 per month) during the second quarter. The sale of the ATM business closed
7 on April 30, 2019.

8 **B. Clawback Claims**

9 The Court has authorized the Receiver to pursue Clawback Claims and
10 approved the Receiver's proposed procedures for prosecuting such claims. As
11 discussed above, recoveries from Clawback settlements have been very successful
12 to date. The Receiver will continue to pursue such claims and file complaints
13 against profiting investors who choose not to accept the Court-approved settlement
14 offer.

15 **C. Distributions**

16 Pursuant to the Court's approval of proposed allowed claim amounts and
17 order authorizing interim distributions, the Receiver made interim distributions to
18 investors and creditors with allowed claims by June 24, 2019. The Receiver
19 continues to identify and resolve delivery issues. Once his remaining Clawback and
20 recovery work is completed, the Receiver will seek authority to make a final
21 distribution and conclude the receivership.

22 **IX. CONCLUSION**

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

25 Dated: September 30, 2019

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: /s/ Edward G. Fates

EDWARD G. FATES
Attorneys for Receiver
William Hoffman

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 04/01/2019 through 06/30/2019

Fund Accounting (See Instructions):

		<u>Detail</u>	<u>Subtotal</u>	<u>Grand Total</u>
Line 1	Beginning Balance (As of 04/01/2019)	\$ 35,947,766		
	Increases in Fund Balance			
Line 2	Business Income	\$ 100,468		
Line 3	Cash and Securities			
Line 4	Interest/Dividend Income	\$ 7,677		
Line 5	Business Asset Liquidation (Sale of ATMs)	\$ 50,000		
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	\$ 61,608		
Line 8	Miscellaneous - Other			
	Total Funds Available (Lines 1-8)			\$ 36,167,519
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors (cleared)		\$ (12,214,190)	
Line 10	Disbursements to Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	\$ (215,703)		
Line 10b	Business Asset Expenses	\$ (103,277)		
Line 10c	Personal Asset Expenses			
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	<u>Total Third-Party Litigation Expenses</u>			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments	\$ (3,450)		
	Total Disbursements for Receivership Operations		\$ (322,430)	
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		
Line 12c	Non-Investor - Priority Claim	\$ (12,078.68)	
	Total Disbursements to Court/Other:	\$ (12,078.68)	
	Total Funds Disbursed (Lines 9-11):		\$ (12,548,699)
Line 13	Ending Balance (As of 06/30/2019)		\$ 23,618,820
Line 14	Ending Balance of Fund - Net Assets		
Line 14a	Cash & Cash Equivalents	\$ 23,618,820	
Line 14b	Investments		
Line 14c	Other Assets or Uncleared Funds		
	Total Ending Balance of Fund - Net Assets		\$ 23,618,820

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: September 25, 2019