

Partners, Ltd. (“Vendetta Partners”), Vendetta Royalty Management, LLC (“Vendetta Management”), Vesta Royalty Partners, LP (“Vesta Partners”), Vesta Royalty Management, LLC (“Vesta Management”), Iron Rock Royalty Partners, LP (“Iron Rock Partners”), Iron Rock Royalty Management, LLC (“Iron Rock Management”), Arcady Resources, LLC, Barefoot Minerals, G.P. (“Barefoot Minerals”), G3 Minerals, LLC, Haley Oil Company, Inc. (“Haley Oil”), Lake Rock, LLC, SeBud Minerals, LLC and Technicolor Minerals, G.P. (“Technicolor Minerals”) (collectively, the “Defendants”) had offered and sold securities of Vendetta Partners and other entities in violation of the anti-fraud and broker-dealer registration provisions of the federal securities laws.

On December 3, 2013, the Court entered a Temporary Restraining Order (Doc. #10) (the “TRO”) restraining and enjoining the Defendants from further violations of the anti-fraud and broker-dealer registration provisions of the federal securities laws. In its TRO this Court, among other things, also granted ancillary relief enjoining the destruction of books and records, ordering interim accountings by the Defendants and authorizing expedited discovery.¹ Contemporaneously, this Court entered an Order appointing Thomas L. Taylor III as Receiver for the Defendant entities as well as for Defendants Helms, Kaelin, Sellers, and Barrera. By the Order Appointing Receiver (Doc. #11) this Court has directed the Receiver, among other things, to take control and possession of, to operate the Receivership Estate, and to perform all acts necessary to conserve, hold, manage and preserve the value of the Receivership Estate.

The Order Appointing Receiver also directs the Receiver to prepare and to submit periodic reports to this Court. *Id.* at ¶¶ 54-55. This is the First Interim Report of Receiver and

¹ On December 18, 2014, this Court entered a Preliminary Injunction, by consent, against all of the Defendants (Doc. #37). The Receiver consented to the Preliminary Injunction as to the entity Defendants.

addresses the period from December 3, 2013 -- the date upon which the Receiver commenced his duties -- through December 31, 2013, the last day of the Fourth Quarter 2013 reporting period.

I. Overview of Vendetta Partners, affiliated entities and the Receivership Estate

As alleged by the Commission, Helms and Kaelin, through entities they control, offered and sold securities in the form of limited partnership interests issued by Defendants Vendetta Partners, Vesta Partners and Iron Rock Partners. Helms and Kaelin controlled these entities through their respective general partners -- Defendants Vendetta Management, Vesta Management and Iron Rock Management.

Helms and Kaelin operated each limited partnership from an office at 8101 Cameron Rd., Suite 109, in Austin, Texas. They utilized a sales team, including Sellers, Barrera and others to offer the subject securities for sale to investors by telephone, by email, and by in-person presentations. As alleged by the Commission, Helms and Kaelin also directly offered and sold the securities to investors in person at the Austin office and through emails and phone calls.

Helms and Kaelin formed Vendetta Partners in or about 2009. At or about that time, Vendetta Partners acquired certain oil and gas royalty interests, along with limited partners, from another limited partnership associated with Helms and Kaelin. Subsequently, Defendants raised approximately \$23,200,000 through the offer and sale of the limited partnership interest to the public. In this regard, the forensic accountants engaged by the Receiver have identified 121 investors in Vendetta Partners and related entities commencing in January 2009. Total equity inflows from these investors were approximately \$23,200,000 in cash and approximately \$7,800,000 non-cash contributed capital or other. A total of \$31,000,000 appears to have been contributed to Vendetta Partners. A full analysis has not been completed of equity outflows as

there were significant intra-equity movements. The total equity outflow prior to analysis is approximately \$9,000,000.

The Receivership Estate is comprised of all of the assets of the entity Defendants (including claims which may be asserted by the Receivership entities) and the assets of the individual Defendants who have been placed in Receivership.

II. Financial Condition of the Receivership Estate upon Commencement of the Receivership

A. Cash/Liquid Assets at Inception

Immediately prior to the commencement of the action, the Staff of the Commission undertook to identify, to the extent possible, all accounts at financial institutions held in the names of the Receivership entities and individuals. Immediately following entry of this Court's Order Appointing Receiver, the Staff of the Commission served that Order upon all of the financial institutions identified. Although 28 accounts were immediately frozen after this Court's issuance, under seal, of the Order Appointing Receiver, cash balances in the frozen accounts were *de minimis* in view of the the size and scope of business operations and obligations of the Receivership entities.

Although payroll payments had been disbursed in the week prior to the initiation of the Receivership, Vendetta Management's check for payment of withholding taxes associated with that payroll was returned for insufficient funds. Accounts for administrative services (i.e. utilities, internet, telephone, software support, etc.) were unpaid and in arrears; and there were no funds on account for payment of salaries and other administrative costs going forward. Moreover, as described, *infra*, the Defendants had followed a pattern and practice of disbursing numerous payments for various expenses not related to the legitimate business of the entities in

Receivership; the Receiver discovered numerous unpaid invoices for these charges and expenses which, in fact, should not have been charged to the Receivership entities in the first instance.

Notwithstanding the imminent financial collapse and mismanagement of the Receivership entities prior to the inception of the Receivership, the underlying oil and gas interests which comprise the investment portfolio of Vendetta Partners (and related entities) has generated and will continue to generate significant cash flow (albeit grossly insufficient to operate the entities on an ongoing basis as they previously had been operated). As described in more detail below, Vendetta Partners -- and to a much lesser extent Technicolor Minerals -- received royalty payments and other disbursements upon what is roughly estimated, at this juncture, to be approximately 9,000 royalty interests arising from mineral leases in various counties of Texas and in other states.

From the inception of the Receivership, December 3, 2013, through the end of this reporting period, December 31, 2013, the Receivership entities received royalty payments in the amount of \$32,448.22. From inception of the Receivership through the date hereof, the Receivership entities have received royalty payments in the amount of \$94,380.37 and frozen funds transferred to the Estate in the amount of \$31,159.72. Including disbursements for business operations, the cash on hand totals \$104,313.12 as of the date of this Report. Attached hereto as **Exhibit A** is a schedule of all the Receiver's receipts and disbursements within the period covered in this Quarterly report.

B. The Oil and Gas Portfolio of Vendetta Partners and Related Entities

As an initial matter, it must be noted that the records related to the portfolio of oil and gas interests owned by Vendetta Partners and other related Receivership entities (the "Vendetta Partners Portfolio") -- and recordkeeping generally at the Cameron Road offices in Austin --

were incomplete, inadequate and not current, making the determination of the interests contained in the Vendetta Partners Portfolio extremely difficult.

At this juncture, the assets in the portfolio cannot be definitively stated; recordkeeping and oversight of acquisitions of assets was random at best. The Receiver has interviewed the personnel most knowledgeable about the contents and status of the portfolio. They are unable to state with certainty whether some transfers (which were “in the pipeline”) were ever concluded or appropriately titled to the entities to which they were supposedly destined. Moreover, there are unanswered questions raised by transfers between and among the various entities. Third-parties engaged by Vendetta Partners have indicated that the Vendetta Partners Portfolio consists of approximately 9,000 producing properties and approximately 1,200 potential upside properties located primarily in various Texas counties but encompassing properties across approximately 16 states.

In or about April 2012, Vendetta Partners engaged Scott Marshall, a third-party oil and gas engineering analyst, to perform an independent economic valuation of the Vendetta Partners Portfolio in preparation for its sale. Mr. Marshall had been working on his valuation of the Vendetta Partners Portfolio for approximately 21 months when this Court placed the Defendants into Receivership on December 3, 2013. The Receiver has interviewed and met with Mr. Marshall on multiple occasions, is satisfied that Mr. Marshall is well qualified to perform the analysis for which he was engaged and for which he had completed a significant amount of his economic evaluation. Engaging Mr. Marshall to complete his analysis will provide a significant benefit to the Receivership Estate and add value to the Vendetta Partners Portfolio for its eventual sale.

Vendetta Partners also engaged Purple Land Management (“PLM”) as part of their efforts to prepare the Vendetta Partners Portfolio for sale. PLM was engaged to perform title work on the underlying properties, clean up the ownership and chain of title, and to evaluate whether the royalties that Vendetta Partners was receiving were properly calculated and allocated among the various royalty holders for each property. PLM had stopped performance under its engagement with Vendetta Partners after four months because it was owed nearly \$850,000 for the work it performed. In fact, PLM had commenced litigation against Vendetta Partners in the District Court for Tarrant County, Texas for breach of its services contract, which litigation was stayed by the Order Appointing Receiver.²

C. Haley Oil Company, Inc.

Haley Oil is an Illinois corporation formed on or about January 3, 2011, doing business in Illinois as the owner/assignee and operator of working interests in oil and gas production leases. Haley Oil acquired working interests which required it to operate the mineral leases it purchased, rather than acquiring royalty interests which consisted of cash-flow from mineral leases operated by others.

Defendant Helms was Haley Oil’s president, although day-to-day operations in Illinois were conducted from Mattoon, Illinois by Charles Martin “Marty” Kaelin, the husband of Defendant Kaelin. Haley Oil’s registered agent was Diana Ratts, Defendant Helms’ mother, who lives in Mattoon, Illinois. The Secretary of State of Illinois involuntarily dissolved Haley Oil on June 14, 2013 for failing to file an annual report and pay annual franchise taxes as required by the Illinois Business Corporations Act. *See* 805 I.L.C.S. 5/12.35(a). Accordingly, the

² The Receiver has held preliminary discussions with PLM in regard to engaging it to complete the work it had previously performed for Vendetta Partners. After Mr. Marshall has reached the final stages of his analysis, the Receiver and PLM will discuss further whether additional services by PLM would add value to the Vendetta Partners Portfolio when offered for sale.

dissolution of Haley Oil terminated its corporate existence and the principals thereafter carried on its business operations unlawfully and without the authority to do so. *See* 805 I.L.C.S. 5/12.40(c).

Haley Oil purchased working interests in approximately 22 oil and gas production leases in Christian, Clay, Coles and Shelby counties in Illinois (the “Haley properties”).³ The Receiver’s representative traveled to Illinois on January 8, 2014 to inspect the Haley properties and interview contract employees and trade creditors regarding Haley Oil’s properties and operations.

Receivership entity records and interviews with trade creditors indicate that Haley Oil liabilities were often paid by Vendetta Partners and Barefoot Minerals; in some instances utility accounts in Illinois were placed in the name of Barefoot Minerals. The Receiver and his forensic accountants are investigating the use of investor funds by Haley Oil, including allegations made by the Commission in its Complaint (Doc. #1) regarding roundtrip transfers to and from Haley Oil associated with purported distributions to Vendetta Partners investors.⁴ *Id.* at ¶ 44. Furthermore, several trade creditors have outstanding balances with Haley Oil; to date, approximately ten trade creditors in Illinois and Oklahoma have indicated they will submit claims against the Receivership Estate totaling approximately \$30,000.

³ For each of the Haley properties, it has purchased working interests of approximately 87%. However, Haley did not receive 87% of the proceeds from these leases and distribute them *pro rata* to investors (who are also investors in Vendetta Partners). Rather, Haley assigned overriding royalty interests of approximately 40-43% to those investors. Haley also assigned overriding royalty interests of approximately 7-8% to Receivership Entity Barefoot Minerals. These assignments reduced Haley’s working interest to approximately 30-34%, but did not reduce its obligation to operate the Haley properties and pay related expenses.

⁴ The Receiver has also been informed that Defendant Helms’ mother Ms. Ratts was paid a substantial “finder’s fee” by Haley Oil related to the purchase of the Haley properties. Any such fee, and any other transfers made to Ms. Ratts, will be subject to avoidance under fraudulent conveyance statutes and other applicable law, as discussed *infra* at pp. 17-20.

At the inception of the Receivership, the Haley properties were in varying degrees of production, disrepair, abandonment and environmentally unsound and unsafe conditions. Upon the advice of personnel in Illinois, the Receiver instructed Haley Oil employees to shut down well pumps on approximately three Haley properties which were active at the inception of the Receivership, due to the safety and environmental hazards of continued operations without proper supervision. Additionally, and prior to the inception of the Receivership, a Haley Oil trade creditor had ceased to perform work for Haley Oil until outstanding invoices were paid. He has advised the Receiver that he shut down well pumps on three additional Haley properties because of safety and environmental concerns in that water storage tanks on those properties were full.

Based upon interviews with Haley Oil contract employees, Haley Oil trade creditors with industry experience in Illinois and elsewhere in the United States, review of Haley Oil records and the inspection of Haley properties in Illinois by the Receiver's representative, it appears that Haley Oil's operations were, at best, substandard.⁵ Moreover, Haley Oil was operated in violation of various Illinois environmental and regulatory statutes, receiving multiple notices of violation from the Illinois Department of Natural Resources ("IDNR") and the Illinois Environmental Protection Agency ("IEPA"). These violations range from (1) the failure to

⁵ Examples of Haley's substandard operations include the following: (1) operating multiple Haley properties in violation of environmental regulations and failing to remediate violations upon receipt of notice; (2) failing to properly maintain equipment and wells sites, which will require tens of thousands of dollars in capital expenditures to resume operations; (3) taking working equipment from one well site to replace broken equipment at another; (4) rerouting oil from one Haley property to another due to poorly maintained storage equipment; (5) failing to effectuate the transfer of authority to operate wells for six months after purchasing the wells; 6() failing to engage in any production activities whatsoever on several Haley properties, jeopardizing Haley's rights to operate those properties, including the loss of one Haley property in August 2013 and the exposure of five additional Haley properties to loss by April 2014; and (7) installing pipe of a lower quality and grade than industry standards for the transportation of crude oil.

perform required periodic integrity tests on wells; to (2) the failure to cap and plug well heads in order to maintain temporary abandonment status with the IDNR; to (3) the occurrence of and failure to remediate oil spills and soil contamination on Haley properties. The cost to remediate the more serious of these violations was close to \$100,000, with the majority of those costs still unpaid to creditors. Based upon Haley Oil records and interviews with contract employees and an environmental remediation consultant formerly engaged by Haley Oil, the cost to remediate all outstanding IDNR and IEPA violations, pay outstanding fines for those violations and perform maintenance which would allow the resumption of operations for those Haley properties currently in violation, would cost the Receivership Estate tens of thousands of dollars.

Litigation has also been commenced against Haley Oil related to its IDNR and IEPA violations. Haley Oil was sued in the action styled *Environmental Audits and Consultants, Inc. v. Haley Oil Company, Inc. and CountryMark Refining and Logistics, LLC*, Case No. 13-CH-14, in the Circuit Court of the Second Judicial Circuit, Shelby County, Illinois, by a company engaged to remediate an environmental violation arising from an oil spill. The plaintiff Environmental Audits and Consultants, Inc. (“EACI”) asserted claims for unpaid invoices in the amount of approximately \$40,000, and recorded an oil and gas lien against Haley Oil’s production proceeds from certain Haley properties in Shelby County, Illinois. CountryMark Refining and Logistics, LLC, which purchased oil from Haley Oil, has stopped payment to Haley Oil and holds Haley Oil revenues in escrow pending the outcome of the litigation. Approximately \$50,000 in production proceeds remains unpaid by CountryMark due to EACI’s lien. The Receiver is investigating EACI’s claims and potential counter-claims that Haley Oil may have against EACI.

Relatedly, an agreed judgment was entered on November 14, 2013 against Haley Oil for \$48,067.25 in the action styled *Landfill 33, Ltd. v. Haley Oil Company, Inc.*, Case No. 12-L-41, in the Circuit Court of the Fourth Judicial Circuit, Effingham County, Illinois. This action was based upon unpaid invoices from the landfill company which received contaminated soil from EACI. Plaintiff Landfill 33, Ltd. also asserts that it recorded a lien against certain Haley Oil production proceeds; the Receiver is investigating the existence and validity of these liens.

D. Assets of the Individual Defendants

The Receiver's representatives and members of the Commission visited and inspected the residential premises of Defendants Helms and Kaelin on December 4, 2013 at the inception of the Receivership. The Receiver permitted Mrs. Kaelin, Mr. Helms and their family members to remain in the residence on an interim basis, subject to the exercise in the future of the Receiver's rights to the property as a Receivership Asset. The home does not appear to be a viable asset for the Receivership Estate, as there is little to no equity in the home. The cost to the Receivership Estate to maintain and liquidate the residence would likely result in little to no positive value for the Estate following the payment of the outstanding mortgage and other expenses.

The Receiver's representative also took possession of a 2008 Mercedes-Benz S550, which was purchased by Kaelin in 2011 as a gift for Helms, and is titled to Defendants Helms and Kaelin. The Receiver's staff has sought the cooperation of Helms and Kaelin in transferring title to the vehicle so that it may be sold for the benefit of the Estate. Their cooperation in this regard is required pursuant to the Order Appointing Receiver. *Id.* at ¶ 30.

Pursuant to the Order Appointing Receiver, the Defendants must file with the Court sworn statements and an accounting of their assets. *Id.* at ¶¶ 9-10. These statements are presently required to be filed with this Court on January 31, 2014 pursuant to the Preliminary

Injunction. The Receiver will make further investigation into the personal assets of the Defendants upon the filing of these sworn statements and accountings of personal assets.

III. Preliminary Results of Forensic Accounting

The Receiver has engaged the forensic accounting firm of D. Supkis Cheek, PLLC (“DSC”) to preform forensic analysis of the financial records of the Defendants to aid in the Receiver’s investigation of the assets of the Receivership Estate. DSC has made substantial progress in analyzing the flow of funds between and among the various Receivership entities and Defendants. The forensic accountants’ analysis to date has uncovered numerous transactions between and among the Receivership entities and the Defendants and further that intercompany payables and receivables do not reconcile. DSC has currently identified 1,723 QuickBooks entries representing related-party movements, including the payables and receivables of Defendants Helms and Kaelin. These results are preliminary and have not yet been (1) reconciled with bank statements or (2) scrutinized with an eye to identifying transactions that are located in the books and records of only one entity involved in the transfer. Nonetheless, they offer a high-level cash flow perspective of transactions between the Receivership entities. Attached hereto as **Exhibit B** is a preliminary mapping of the movement of funds per the QuickBooks records of the Receivership entities.

Through a preliminary review of Receivership books and records, along with information obtained in interviews with former employees of the Receivership entities, including with Vendetta Partner’s former controller Will Heath, DSC has encountered numerous examples of Vendetta Partners and other Receivership entities making payments of personal expenses on behalf of Defendants Helms and Kaelin, Grady Vaughn III and members of their families. In many cases, these personal expenses were identified in QuickBooks as “promotional expenses.”

Payments were made on behalf of these and other individuals for, among other things, household utilities and other bills, school tuition payments and rent, mortgage and car loan payments. DSC has not performed a complete analysis of personal expenses at this time, but through other testing has reviewed numerous transactions that are personal in nature and do not reflect permissible use of proceeds of the assets of Vendetta Partners and the other entities in Receivership.

IV. Projected Business Operations Pending Recommendation of Plan of Liquidation

The Receiver has undertaken a preliminary review of the oil and gas portfolio of the Receivership entities and has met extensively with professionals who previously were engaged to conduct engineering/cash flow and title analyses of that portfolio. The Receiver also has met with and interviewed administrative personnel of the Receivership entities bearing responsibility for monitoring and collecting royalty payments and for maintaining extensive updated data tracking the royalty interests and receipts associated with those interests. These ongoing operations are essential in order to maintain the salability of the portfolio.

The Receiver has taken steps (1) to minimize the disruption of cash flow from the asset base; and (2) to initiate a resumption of professional services related to the engineering and title work which will be essential in attempting to maximize the value of the Vendetta Partners Portfolio upon liquidation. In this regard, the following steps have been taken since the inception of the Receivership on December 3, 2013:

1. Post office boxes and mail service associated with the entities have been maintained without change to avoid disruption of delivery of a substantial volume of correspondence (including royalty payments in varying denominations).
2. Vendetta Partners' business premises have been retained -- at least for now -- per arrangements with the landlord for payment of rent going forward.

3. Although all Vendetta Partners personnel were initially terminated upon inception of the Receivership on December 3, the Receiver has since that date undertaken interviews and assessments of various personnel and has engaged -- on a contract basis -- five individuals who have been determined to be essential to maintaining and servicing the oil and gas portfolio.
4. As discussed, *supra* at p. 6, the Receiver has engaged Scott Marshall, the engineering professional previously engaged to analyze and evaluate the oil and gas portfolio, to resume his evaluation activities with a view to the anticipated sale of the portfolio pursuant to procedures which will be recommended by the Receiver to this Court. In this regard, the Order Appointing Receiver instructs the Receiver to present a plan of liquidation to the Court within 90 days of the inception of the Receivership.
5. As discussed, *supra* at p. 8, the Receiver's representative inspected the Haley properties in Illinois and has interviewed Haley Oil contract employees and trade creditors with regard to its operations. The Receiver and his representatives have further reviewed Haley Oil records to evaluate the feasibility, benefits and costs to the Receivership Estate of commencing Haley Oil operations on some limited basis.

V. Groups Materially Affected

Three categories of persons and entities are affected by the Defendants' conduct and by the Receivership: (1) investors in the securities offered and sold by Vendetta Partners and related individuals and entities; (2) individuals or entities who have done business with Defendants as landlords, vendors, service providers or creditors; and (3) employees. Each category has presented issues that have required the Receiver's attention.

A. Investors in the Oil and Gas Program of Vendetta Partners and related entities

Through an analysis of QuickBooks and other investor summary documents found, forensic accountants have identified 121 investors with transactions in Vendetta Partners' QuickBooks starting on or after January 1, 2009. They have also identified an additional four names that are listed as investors in supporting documents, but have not identified any related QuickBooks equity transactions at this time.

In total, inflows to Vendetta Partners from the 121 investors were \$44,836,645 per the equity section of Vendetta Partners' QuickBooks. In addition, there were outflows of \$8,886,996 to the investors documented in QuickBooks, for a net inflow of \$35,949,649. Of these equity inflows approximately \$23,242,303 represents cash investment (including cash raised through the offerings which are the subject the present action).

Of the 121 investors, five were from the Helms and Kaelin families by surname (Janniece Kaelin, Blake Kaelin, Robert A. Helms, Steven Helms, and Robert W. Helms Jr.). These five investors had combined equity inflow of \$3,042,197 and a combined equity outflow of \$1,714,123.

Therefore, the 116 non Helms/Kaelin investors accounted for \$41,794,448 equity inflows and \$7,172,873 equity outflows.

At this juncture, four investors have been identified who received more distributions from Vendetta Partners than they paid in per equity flows. Additionally, there are two investors for which no equity inflows have been identified at this time.

B. Vendors/Service Providers and Other Creditors

Attached hereto as **Exhibit C** is a list of all potential creditors found among the Receivership entities' books and records, or who have contacted the Receiver, and the amounts

of their potential claims. This list is based upon preliminary review of records available; accordingly, it is not comprehensive. Claim totals are unverified, and will be subject to confirmation procedures established in the Claims process -- to the extent that there are assets available for unsecured creditors in the Plan of Distribution.

C. Employees

It is the Receiver's understanding that at inception of the Receivership, employees and contract workers for the Receivership entities had been paid for the last payroll period ending November 30. As set forth above, Vendetta Management's check in payment for withholding taxes was dishonored. However, the Receiver has remitted those payroll taxes from current receipts. No employee related claims have been received by the Receiver to date and he is aware of no unasserted claims.

VI. Custody of Books/Records and Electronically Stored Data

Immediately after entry of the Order Appointing Receiver, the Receiver and his staff -- in conjunction with personnel of the Commission -- secured the business premises of Vendetta Partners and other Receivership entities and took possession, custody and control of books, records and computers. The Receiver's personnel and members of the Commission's Staff undertook a preliminary review of the books and records to assure preservation of attorney-client privileges and segregation of documents associated with Defendant Helms's separate law practice. The Receiver also segregated the books and records of the legal practice of a sub-tenant in the premises and authorized the removal of documents which were unrelated to that attorney's representation of Receivership entities in certain matters. Contemporaneously with taking possession of the business premises, the Receiver's representatives and members of the Commission also visited and inspected the residential premises of Defendants Helms and Kaelin.

Representatives of law enforcement also took possession of all documents located there. The Receiver took possession of a Mercedes-Benz S550 titled to Defendants Helms and Kaelin without encumbrances. Two Public Storage units were also inspected and secured, one of which held a significant body of documents that were inspected for attorney-client privilege. These documents are now within the custody and control of the Receiver.

On December 18, 2013, the Receiver debriefed the certified public accountant who had been engaged by the Receivership entities and assumed custody and control of the Receivership entities' client files which were in possession of that firm. The Receiver also is in communication with an outside law firm which performed legal services related to the business operations and securities offerings of the Defendants. At this juncture, the legal files in the possession of the law firm in question have not been delivered to the Receiver, pending the assertion and resolution of claims of privilege. In this regard, the Receiver has waived the attorney-client privilege of the entities in Receivership.

VII. Clawback Litigation and Potential Claims Against Third Parties

This Court found the appointment of the Receiver "necessary and appropriate for the purposes of marshaling and preserving all ... Recoverable Assets," including assets that "were fraudulently transferred by the Defendants." Order Appointing Receiver, at p. 2. The Receiver will make demand on all persons discovered to have received fraudulent transfers of assets from the Receivership Estate. If necessary, the Receiver is prepared to commence litigation pursuant to the Texas Uniform Fraudulent Transfer Act, TEX. BUS. & COM. CODE §§ 24.001, *et seq.* ("TUFTA") and other applicable law seeking to avoid all fraudulent transfers that were made by the Receivership Entities. These "clawback" actions are appropriate in regard to (1) all commissions, finder's fees and expenses paid by the Receivership Entities in connection with the

recruitment of investors into the Vendetta Partners/Iron Rock Partners investment scheme; (2) all expenses paid by the Receivership Entities on behalf of others, including the payment of personal expenses and legal fees; (3) all distributions made to investors in excess of their principal investments; and (4) all distributions made to investors who were insiders or otherwise cannot establish that they received such transfers in good faith.

A. Commissions, Finder's Fees and Expenses Paid in Connection with Investor Recruitment

Several individuals -- some of whom are also investors in the Vendetta Partners/Iron Rock Partners offerings -- were authorized by Defendants and compensated to recruit investors to participate in the Vendetta Partners/Iron Rock Partners offerings. Under the fraudulent conveyance statutes and applicable case law, these payments, by definition, are fraudulent transfers and are required to be returned to the Receivership Estate for the benefit of defrauded investors. Under applicable decisions of the U.S. Court of Appeals for the Fifth Circuit, providing services in furtherance of a Ponzi scheme does not confer “reasonably equivalent value.” *See Warfield v. Byron*, 436 F.3d at 555, 560 (5th Circ. 2006). Accordingly, the defense of “equivalent value” is not available to these individuals in regard to the commissions, fees and reimbursed expenses received from the Receivership entities, and the Receiver will seek the return of all such transfers made in connection with the recruitment of investors into the Vendetta Partners/Iron Rock Partners investment scheme.

Payments of finder's fees/commissions and related expenses were paid to at least six individuals in amounts varying totaling from \$19,000 to \$1.1 million. Demand for the repayment of these transfers has already been transmitted to certain of these individuals; additional demands will be transmitted shortly.

B. Personal Expenses and Legal Fees Paid by Receivership Entities on Behalf of Others

The Receiver's investigation and forensic accounting efforts have uncovered numerous payments made by Receivership Entities on behalf of Vendetta Partners insiders, their family members and others, including individuals who were compensated for recruiting investors. These payments of personal expenses include rent, household utilities and other bills, school tuition, and car lease payments. The Receiver will pursue the return of all payments of personal expenses from those persons for whose benefit payments were made.

The Receiver has also discovered that Vendetta Partners transferred \$45,241.48 to a law firm engaged by Defendant Helms for legal work in which Mr. Helms is identified as the client. The Receiver has made demand on the law firm and is negotiating the return of these funds to Receivership Estate.

C. Net Winner Investors

As the Commission has alleged in its pleadings, investors in the Vendetta Partners/Iron Rock Partners offerings were paid principal and interest, in part, from the principal investments of other, later-in-time investors in the Vendetta Partners/Iron Rock Partners offerings. *See, e.g.*, Complaint at ¶¶ 42, 44. In a few instances, investors have received distributions from the Receivership Entities in excess of the amount of principal which they invested ("net winners"). The Receiver will endeavor to ensure that all investors are treated fairly and equitably and to ensure that no investor or group of investors will benefit from receipt of "profits" which were, in reality, funds invested by other investors. To this end, the Receiver will request the return of these excess amounts from all "net winners," so that an equitable *pro rata* distribution may be achieved. If the Receiver determines that is is beneficial to the Receivership Estate, he will commence litigation seeking to avoid any transfer of these false "profits."

D. Insiders and Investors Who Cannot Demonstrate Objective Good Faith

Several investors in the Vendetta Partners/Iron Rock Partners offerings are insiders and other persons whose knowledge of the alleged investment scheme will be placed in dispute by evidence from the Receiver's and Commission's investigations. In addition to disallowing all claims by persons with knowledge of the fraudulent scheme underlying the Vendetta Partners/Iron Rock Partners offerings, the Receiver will pursue the avoidance of all distributions already made to persons who are unable to objectively demonstrate good faith, even if such persons are able to demonstrate an exchange of reasonably equivalent value for the distributions they received. *See* TUFTA § 24.009(a) ("A transfer ... is not voidable under Section 24.005(a)(1) of this code against a person who took in good faith **and** for a reasonably equivalent value ...") (emphasis added).

VIII. Communications with Investors

The Receiver has established a website which is expected to be the primary source of information for investors in the oil and gas interests of Vendetta Partners and related entities. (*See* www.vendettaroyaltyreceivership.com). The website contains affiliated email accounts to receive claims and related communications. The format of the website includes general information and summary of the Receivership and the Order Appointing Receiver, complete Court Filings in the case and a Frequently Asked Questions page. When established, the Receiver will post procedures for submission of claims by investors and creditors through the website.

On January 13, 2014, the Receiver conducted a telephone conference with Vendetta Partners investors. Notice of the conference call was given to all known investors for whom contact information was available. Prior to the commencement of the call, investors were

afforded an opportunity to submit questions. Approximately 60 questions were presented and the Receiver made every effort to address those questions during the call. Based upon tracking information supplied by AT Conference, it is the Receiver's understanding that 84 investors attended and monitored the presentation. During the conference call the Receiver provided investors with a detailed overview of the conduct of the Receivership to date and a description of the resolution process which would be initiated during the pendency of the Receivership.

IX. Professionals Engaged by the Receiver

The Order Appointing Receiver authorizes the Receiver to employ professionals such as consultants, investigators, attorneys and accountants as he judges necessary to perform his duties. *Id.* at ¶ 58. The following professionals and experts have been retained to assist the receiver to date:

1. The Taylor Law Offices, P.C. – the Receiver's law firm;
2. Ballard & Littlefield, LLP – a law firm experienced in securities litigation and enforcement matters as well as commercial litigation;
3. D. Supkis Cheek, PLLC – a Certified Public Accountant and Certified Fraud Examiner to perform forensic analysis of the financial records of the Defendants and to aid in the Receiver's investigation of the assets of the Receivership Estate; and
4. Tom Gossett CPA P.C. – a tax accountant whose services will be necessary to comply with various filing requirements and taxation issues related to the Receivership entities and to the Receivership Estate.

January 31, 2014

Respectfully submitted,

Thomas L. Taylor III, Receiver

BALLARD & LITTLEFIELD, LLP

By: /s/ Donald R. Littlefield

Donald R. Littlefield

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COUNSEL FOR RECEIVER

CERTIFICATE OF SERVICE

On January 31, 2014 I electronically submitted the foregoing Status Report with the clerk of court for the U.S. District Court, Western District of Texas, using the electronic case filing system. I hereby certify that I have provided copies to all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Donald L. Littlefield

Donald R. Littlefield