

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CONSUMER FINANCIAL PROTECTION
BUREAU and STATE OF FLORIDA,
OFFICE OF THE ATTORNEY GENERAL,
Department of Legal Affairs,

Plaintiffs,

Case no. 9:14 CV 80931/COHN/SELTZER

vs.

MICHAEL HARPER, et al.,

Defendants.

**RECEIVER'S SIXTH INTERIM REPORT, CONCERNING THE
STATUS OF VARIOUS MATTERS (INCLUDING AN UPDATE
ON THE ANTICIPATED DATE OF DISTRIBUTIONS TO
CONSUMERS), AND MOTION TO CONTINUE RECEIVERSHIP**

Mark J. Bernet, Receiver for The Hoffman Law Group, P.A., f/k/a The Residential Litigation Group, P.A., Nationwide Management Solutions, LLC, Legal Intake Solutions, LLC, File Intake Solutions, LLC, and BM Marketing Group, LLC (the "Receiver"), hereby files his sixth interim report, relating to the status of various matters. This sixth interim report discusses events that have occurred since the filing of the *Receiver's Fifth Interim Report, Concerning the Status of Various Matters, and Motion to Continue Receivership* (doc. no. 159) ("Fifth Interim Report"), dated June 27, 2016.¹ The Receiver also moves for entry of an order extending his appointment as receiver, through December 31, 2016, to permit the Receiver to continue to work with the Plaintiffs to facilitate the restitution process, and so that the Receiver can participate in bar disciplinary proceedings pending in another state.

1. Transfer of funds. The funds recovered by the Receiver are to be included in a fund that will be distributed to the consumer-clients of the Hoffman Law Group, who are the

¹ The Fifth Interim Report is adopted by this reference.

victims of the unlawful conduct. As reported in the Receiver's Fourth Interim Report, the Receiver transferred \$655,736.98 to the Plaintiffs by wire transfer on June 5, 2015. In May of 2016, the Receiver transferred an additional \$25,000.00 to the Florida Attorney General, as permitted under the Default Judgment. In June of 2016, the Receiver transferred an additional \$135,000 to the CFPB.

2. Cooperating with the Plaintiffs to determine the identity and location of, and the amount of injury to, each Affected Consumer. The Receiver has taken possession of the electronic records of The Hoffman Law Group, which are maintained through a file management software program known as Lead-Trac. The program is administered by a third-party software management company. The Lead-Trac system contains the names and contact information of all of the consumer-clients of the Hoffman Law Group. The Receiver is continuing to work with the Plaintiffs to assure that they have access to the Lead-Trac system to develop a master contact service list with pertinent information. The Receiver also has provided the Quickbooks program, containing the Hoffman Law Group's financial records, to the Plaintiffs so that they can ascertain how much each consumer-client paid. The Receiver also has received well over a hundred calls from consumer-clients; after filling them in on the status of the case, he passes their contact information along to the Plaintiffs.

3. Liquidating the Assets of the Receivership Defendants. As reported in the Receiver's Fourth Interim Report, the Receiver sold the Receivership Defendants' personal property to equipment brokers and at two separate auction sales. The sale proceeds are either in receivership bank accounts, or have been turned over to the Plaintiffs as described in the preceding paragraph.

4. Pursuing Lawsuits. The Receiver is not involved in any pending lawsuits.

5. IRS Issues. There has been no further contact from the IRS concerning the alleged "frivolous tax returns" discussed in the Receiver's Fourth Interim Report. The Receiver does not expect that there will be any further contact.

6. Consumer Redress. As previously reported, the funds collected by the Receiver will be included in a consumer compensation fund administered by the CFPB. In addition, the CFPB has allocated money from its Civil Penalty Fund to the eligible class of victims in this case. A total of \$11,730,579.00 – the amount of damages awarded by the Court – will be dedicated to providing compensation to consumers. **The CFPB reports that it anticipates making distributions to consumers by the end of October.** More information about the CFPB's Civil Money Penalty Fund is available online at <http://files.consumerfinance.gov/about-us/payments-harmed-consumers/civil-penalty-fund/>. Also, the Receiver will post updates on his website, at www.bernet-receiver.com, as soon as information is available.

7. Funds on Account and Amounts Owed. As of August 31, 2016, the Receiver had \$12,457.46 in a receivership checking account and \$65,729.53 in a receivership money market account. The Receiver has a monthly obligation to a storage facility of \$176, for storage of the Receivership Defendants' computers and paper records. All taxes owed have been paid; although the IRS has asserted its "frivolous" penalty of \$10,000 (*see* Section IV of the Receiver's Fourth Interim Report), the Receiver does not anticipate that he will have to pay that penalty.

MOTION TO EXTEND RECEIVERSHIP THROUGH DECEMBER 31, 2016

The Receiver moves the Court for entry of an order extending the receivership through December 31, 2016. The Receiver has three tasks remaining: Destruction of records and ESI; facilitating the consumer redress process; and testifying at disciplinary proceedings brought by an out-of-state bar association against an attorney connected with this case in an out-of-state forum.

- Destruction of Records. At the conclusion of this case the Receiver will seek permission from the Court to destroy the electronic and paper records of the Receivership Defendants. Doing so will assure that the personally identifiable information contained in those records cannot be used improperly. However, it is premature at this time to destroy these records, due to pending investigations by governmental entities and a state bar association.
- Consumer Redress Issues. As noted, consumers continue to contact the Receiver for updates on the consumer redress process. The CFPB anticipates making distributions to consumers by the end of October.
- Out-of-State Bar Disciplinary Proceedings. An attorney connected to this case and licensed in a foreign state presently has disciplinary proceedings pending against him by his state bar association, relating to his participation in the activities that are the subject of this lawsuit.² The Receiver has responded to a records subpoena from that state bar association. The Receiver also has committed to testify, as a witness, at a hearing to be held in the disciplinary proceedings. The hearing had been scheduled for mid-August, but it has now been continued to mid-November of this year.

² Bar disciplinary proceedings, while pending, are confidential. For this reason, the Receiver has not identified the attorney or the state in which the disciplinary proceedings are pending. The Receiver will provide further information to the Court, under seal, if requested.

WHEREFORE, the Receiver moves the Court for entry of an order extending the receivership through December 31, 2016, to permit the Receiver the opportunity to complete the tasks described above.

LOCAL RULE 7.1(a)(3) CERTIFICATION

The Receiver certifies that prior to filing this motion he made a reasonable effort to confer with all parties who may be affected by the relief requested herein. Counsel for all parties have indicated that they do not object to the entry of an order granting the Receiver's motion.

Dated: Tampa, Florida
September 22, 2016

/s/ Mark J. Bernet

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing was served by CM/ECF to Melissa Guidorizzi, Esquire, 1700 G Street NW, Washington, DC 20552, e-mail melissa.guidorizzi@cfpb.gov; Leanne Hartmann, Esquire, 1700 G Street NW, Washington, DC 20552, e-mail leanne.hartmann@cfpb.gov; Maureen Elin McOwen, Esquire, 1700 G. Street NW, Washington, DC 20552, e-mail molly.mcowen@cfpb.gov; Jennifer Pinder, Esquire, 3507 E. Frontage Road, Suite 325, Tampa, Florida 33607, e-mail jennifer.pinder@myfloridalegal.com; Hector E. Lora, Esquire, The Lora Law Firm, LLC, 174 N.E. 106th Street, Miami Shores, Florida 33138, e-mail hectorlora@bellsouth.net; John A. Richert, Esquire, Hornstine, Pelloni & Hornstine, LLC, 13575 58th Street North, Clearwater, Florida 33760, e-mail john@hornstine.com; and Andrew N. Cove, Esquire, Cove & Associates, P.A., 225 S. 21st Avenue, Hollywood, Florida 33020, e-mail anc@covelaw.com, main@covelaw.com, this 22nd day of September, 2016.

/s/ Mark J. Bernet

Receiver

cc: Lou Hornstine, Esquire (via e-mail to lou@hornstine.com)