

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 17-21033-CV-LENARD/GOODMAN**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

LOTTONET OPERATING CORP.,  
DAVID GRAY,  
JOSEPH VITALE A/K/A DONOVAN KELLY,

Defendants, and

ORACLE MARKETING GROUP INC.,  
CRM INTERACTIVE LLC,  
THE COUNCIL CLUB LLC,

Relief Defendants.

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**FIRST REPORT OF RECEIVER RYAN K. STUMPHAUZER, ESQ.**

I, Ryan K. Stumphauzer, Esq., not individually, but solely in my capacity as the Court-appointed receiver (the “Receiver”) for LottoNet Operating Corp. (“LottoNet”), Oracle Marketing Group Inc. (“Oracle”), CRM Interactive LLC (“CRMI”), and the Council Club LLC (“Council Club”) their affiliates, subsidiaries, successors and assigns (collectively, the “Receivership Entities” or “Estate”) submit this first report regarding the present status of the Estate (“First Report”).

**IMPORTANT – PLEASE READ CAREFULLY**

THE STATEMENTS CONTAINED IN THIS REPORT ARE BASED ON THE INVESTIGATION CONDUCTED IN THE SHORT TIME ELAPSING FROM THE ESTABLISHMENT OF THE RECEIVERSHIP. I HAVE COMPILED THIS REPORT BASED ON BOTH MY PROFESSIONALS' AND/OR MY: (1) REVIEW OF THOUSANDS OF

PAGES OF DOCUMENTS, INCLUDING EXTENSIVE FINANCIAL RECORDS; AND (2) INTERVIEWS WITH NUMEROUS INDIVIDUALS, INCLUDING FORMER EMPLOYEES, ACCOUNTANTS, LEGAL PROFESSIONALS, VENDORS, INVESTORS, FINANCIAL INSTITUTIONS, AND OTHER RELATED PERSONS. THE FACTS AND CONCLUSIONS HEREIN MAY BE SUBJECT TO CHANGE AS MY INVESTIGATION PROGRESSES DURING THE COURSE OF THE RECEIVERSHIP. OTHER THAN THE AMOUNTS CONTAINED IN BANK ACCOUNTS, THE VALUE OF MOST OTHER ASSETS HAS NOT YET BEEN DETERMINED DEFINITELY. AS ADDITIONAL INFORMATION IS DISCOVERED, I INTEND TO FILE ADDITIONAL REPORTS FROM TIME TO TIME.

I CAUTION INDIVIDUALS OR ENTITIES FROM INTENTIONALLY MISREPRESENTING THE INFORMATION CONTAINED HEREIN, DISPARAGING THE RECEIVERSHIP ENTITIES WITH THE INFORMATION, OR USING IT FOR ANY OTHER IMPROPER PURPOSE. ANY SUCH ACTION MAY HAVE SIGNIFICANT LEGAL CONSEQUENCES.

FINALLY, TO THE EXTENT THAT THE RECEIVERSHIP ENTITIES ARE ENGAGED IN LITIGATION, OR ARE EXPLORING POTENTIAL LAWSUITS AGAINST INDIVIDUALS OR ENTITIES, I HAVE NOT SET FORTH ALL OF THE INFORMATION SURROUNDING THESE LAWSUITS OR POTENTIAL LAWSUITS SO AS NOT TO DISCLOSE PRIVILEGED, WORK PRODUCT INFORMATION, OR LITIGATION STRATEGY.

**I. EXECUTIVE SUMMARY**

Since I was appointed as Receiver on March 21, 2017, I have worked extensively with Adam Schwartz, Esq., Jeffrey Sloman, Esq.,<sup>1</sup> and members of my staff to physically secure LotttoNet's corporate offices and to preserve the documents and digital evidence contained therein. We have also spent countless hours communicating and coordinating with several important technology vendors, including Amazon Web Services, Google, and Intuit to secure and preserve cloud-based sources of evidence, including LotttoNet's corporate email accounts, its online document storage system (Google Drive), and its financial accounting data. We have also spent dozens of hours working with offshore computer programmers and with former LottoNet employees to troubleshoot technical networking and software issues, all with the goal of maintaining the functionality of CRM Edge, a crucial source of information described in further detail below.

We also established contact with LottoNet's investors via email and U.S. Mail, conducted a conference call with them to address their questions and concerns, and launched a receivership

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<sup>1</sup> Specifically, I engaged Adam Schwartz, Esq. of Homer Bonner & Jacobs, LLC and Jeffrey H. Sloman, Esq. of the law firm of Stumphauzer & Sloman LLC as my counsel. Pursuant to the Order Appointing me as the Receiver over the Receivership Entities in *SEC v. LottoNet Operating Corp. et al.*, 17-21038-CR-Lenard (S.D. Fla. Mar. 20, 2017), I was provided with the authority to "engage and employ persons in [my] discretion to assist [me] in carrying out [my] duties and responsibilities hereunder, including, but not limited to, ... legal counsel ... ." [ECF No. 12 ¶ 4F]. Mr. Schwartz previously served as: 1) an Assistant United States Attorney assigned to the Economic Crimes Section of the United States Attorney's Office, Southern District of Florida; and 2) Senior Counsel for the United States Securities and Exchange Commission's Enforcement Division. Mr. Sloman previously served as an Assistant United States Attorney for the Southern District of Florida from 1990 to 2010. Between 2006 and 2009, he was appointed Chief of the Criminal Division and the First Assistant United States Attorney, respectively. In May 2009, he was appointed United States Attorney and served in that capacity to May 2010.

website and email address to help facilitate the flow of information to investors and interested parties.

I have performed countless other tasks, described in further detail below, including interviewing current and former LottoNet employees and vendors; drafting of demand letters to shareholders, attorneys, sales agents, and others; negotiating with lessors and vendors; and identifying valuable corporate assets for auction or private sale.

We performed all of these tasks without hiring forensic auditors, information technology professionals, or other outside professionals. I was unable to hire such professionals because we learned that the Receivership Entities had only \$47,333 remaining in their bank accounts on the date of my appointment as Receiver. Likewise, we performed these tasks with minimal assistance from LottoNet's former employees, who were terminated pursuant to the Court's Receivership Order. I also note that on March 21<sup>st</sup> (the day I learned of my appointment) nearly all of LottoNet's employees had already departed LottoNet's offices prior to my arrival on the Premises, having been interviewed by FBI. Without the benefit of outside professionals or the historical/institutional knowledge of any of LottoNet employees, we began the difficult process of learning about LottoNet's operations, finances, and complex information technology structure.

## **II. PROCEDURAL BACKGROUND**

On March 20, 2017, the United States Securities and Exchange Commission ("SEC") filed its Complaint and sought emergency relief from this Court to enjoin LottoNet, its Chief Executive Officer, David Gray, and its sales person, Joseph Vitale, from ongoing violations of the anti-fraud and registration provisions of the federal securities laws in relation to the sale of unregistered shares of LottoNet, which purported to be in the business of facilitating the purchase of lottery tickets online and through its cellular phone application [ECF No. 1].

The SEC's Complaint alleges that from no later than July 21, 2015, LottoNet, David Gray, and Joseph Vitale (the "Defendants") fraudulently raised at least \$4.8 million from at least 138 investors worldwide through numerous misrepresentations and omissions relating to the use of investor funds in telephone conversations, marketing materials, private placement memoranda, and SEC filings. In its Complaint, the SEC also alleges that Defendants made material misrepresentations to investors as to how LottoNet would use investor funds. For example, the SEC alleges that Defendants, among other things, misrepresented to potential investors Gray's monthly compensation to be \$10,000, when in reality Gray often received two-to-three times that amount. Defendants also misrepresented that LottoNet did not pay commissions to the sales agents who solicited investors, when in fact it paid commissions of approximately 35% to sales agents.

On March 20, 2017, the Court issued its Order Granting Plaintiff SEC's Motion to Appoint Receiver [ECF No. 12] (the "Order"), which empowered me to take control of the Receivership Entities.

The following day, on March 21, 2017, the Court issued its Order Granting Temporary Restraining Order, Asset Freeze, and Other Emergency Relief [ECF No. 15], which required, among other things, financial institutions to freeze all accounts held in the name of the Defendants, Receivership Entities, and their affiliates, the Defendants and Receivership Entities to provide sworn accountings, and also restrained the Defendants and Receivership Entities from violating the federal securities laws.

On March 28, 2017, United States Magistrate Judge Jonathan Goodman conducted a hearing to show cause why a Preliminary Injunction should not be granted. I attended the hearing along with my counsel, Adam Schwartz. Defendant David Gray did not personally

appear for the hearing, but was represented by counsel, Robert Gershman, who appeared telephonically. Defendant Joseph Vitale appeared via telephone from the Broward County Main Jail. During the hearing, the SEC presented testimony from its forensic accountant, Allen J. Genaldi, and two former LottoNet sales agents. The Defendants did not present any testimony or evidence in opposition. On March 31, 2017, Magistrate Judge Goodman entered his Report and Recommendation, recommending that the Court grant the relief requested by the SEC and enter a preliminary injunction [ECF No. 40]. Magistrate Judge Goodman also recommended that the Asset Freeze Order should be expanded to include several luxury vehicles, a boat, and assets held in the name of entities affiliated with LottoNet including CRM Edge LLC, LottoNet Peru, S.A.C., LottoNet Guatemala, and LottoNet Colombia.<sup>2</sup>

On April 5, 2017, United States District Judge Joan A. Lenard entered an order adopting the Report and Recommendation of U.S. Magistrate Judge Jonathan Goodman recommending that the Securities and Exchange Commission's Motion for Preliminary Injunction be granted [ECF No. 42].

Neither Vitale nor Gray have responded to the SEC's Complaint. Consequently, a Clerk's Default has been entered against both Defendants, and on May 4, 2017, the SEC filed a Motion for Final Default Judgment Against Joseph Vitale [ECF No. 54]. The SEC is expected to file a Motion for Final Default Judgment against Gray on or before July 22, 2017.

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<sup>2</sup> Based upon my subsequent investigation, I learned that LottoNet Guatemala and LottoNet Colombia were in the planning stages, and Defendants had yet to incorporate the entities or raise any funds for them.

### **III. ASSUMED POSSESSION AND CONTROL OF OFFICES AND ASSETS**

#### **A. Securing LottoNet Premises and Documents.**

After I learned of my appointment as Receiver pursuant to the Order, at approximately 1:00 pm on March 21, 2017, my counsel, Adam Schwartz, Esq. and I arrived at the offices of LottoNet—3195 N. Powerline Road, Pompano Beach, Florida, 33069 (the “Premises” or “Office”)—at approximately 2:30 pm. When we arrived, agents from the Federal Bureau of Investigation (“FBI”) had already secured the Premises and were interviewing LottoNet employees. As a result, we were not immediately allowed inside the Premises. By the time we were permitted to enter the Office, all but one LottoNet employee had left. Thus, I was not afforded the benefit of interviewing all of the employees at the outset of the Receivership to learn the intricacies of LottoNet’s business operations, financial structure, and information technology structure.

After the FBI left the Premises, I knew it was important to establish physical security over the Office, and the documents and digital evidence stored therein. Consequently, I hired an after-hours locksmith who installed high security locks on all of the doors.<sup>3</sup> As there were multiple entrances to the Premises that were also equipped with magnetic locking systems that needed to be disabled, changing the locks was a lengthy and expensive process.

While I was securing the Premises, I also made contact with the leasing agent for the building. He advised me that the office space was leased by S.N.E. Investments, LLC (“SNE”), which, in turn, subleased the premises to LottoNet. Later that day, I contacted SNE’s managing member and its attorney who subsequently provided me with a copy of the sublease agreement dated January 26, 2016, between SNE (sublessor) and David Gray/LottoNet Corp. (sublessees).

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<sup>3</sup> The Order provides that the Receiver is “authorized to change door locks to the premises.” [ECF No. 12 ¶ 17].

The sublease began February 1, 2016 and ended January 31, 2017, and specified monthly lease payments of \$5,700, a security deposit of \$5,700, and prepayment of the first and last months' rent totaling \$11,400. LottoNet continued to occupy the Premises as of January 31, 2017, when the lease expired, and therefore as of February 1, 2017, LottoNet was a "month-to-month" tenant.

On the same day, Mr. Schwartz and I also unplugged the ethernet cables from dozens of computers, phones and routing devices in order to protect all data from remote intrusion. We then spent the rest of the evening, until the early morning hours of March 22<sup>nd</sup>, reviewing documents to identify and segregate potentially privileged materials. In doing so, we identified a small number of privileged documents and segregated them from non-privileged materials. Based upon my review of documents on the Premises, the fact that the Receivership Entities had insufficient funds for document copying and forensic imaging of digital media, and the advice of counsel, I determined that it was in the best interests of the Receivership Entities to turn over their documents and computers to the SEC for processing, copying, and, with respect to LottoNet's computers, digital forensic imaging.

During our document review, we identified a list of several LottoNet vendors, including but not limited to several information technology ("IT") companies such as Google, Amazon Web Services, and Megapath that hosted critical data for LottoNet, or that provided networking, telecommunication or internet services to LottoNet. Over the ensuing days, we established contact with these key vendors to preserve LottoNet's data.

On March 22, 2017, we reconvened at the Premises with Jeffrey H. Sloman, Esq. and two paralegals from Stumphauzer & Sloman. Utilizing a map of the premises created by the FBI, which designated each office/area with a unique letter and number, we boxed documents and

then labeled each box with the corresponding letter and number identifying where each document was located. We then provided the boxes to a vendor engaged by the SEC to scan and Bates label the documents accordingly.

In addition to establishing security and control over LottoNet's office suite, we also established control over a LottoNet mailbox located within a UPS Store located at 49 North Federal Highway, #340, Pompano Beach, FL 33062. After presenting the manager of the UPS Store with a copy of the Receivership Order, he changed the locks to the mailbox and provided us with the keys on March 24, 2017. We have checked the mailbox periodically for vendor invoices and other important correspondence.

**B. Identifying and Contacting Current and Former LottoNet Employees.**

During the above-mentioned process of securing the Premises and documents, we found a list containing the contact information of current and former LottoNet employees. Mr. Sloman made efforts to contact each person on the list. While some of the calls went unanswered, Mr. Sloman did successfully make contact with several former LottoNet employees. Whether by voicemail message or actual contact, all of the people on that list were informed of the following:

1. I was appointed Receiver of the Receivership Entities pursuant to the Order;
2. Their employment by the Receivership Entities was terminated pursuant to the Order;
3. That they were prohibited from taking take any action on behalf of the Receivership Entities; and
4. They were required to preserve and immediately turn over records of the Receivership Entities to the Receiver.

Some former employees provided Mr. Sloman with valuable information regarding the business operations of LottoNet. For example, a former LottoNet IT administrator provided useful information concerning the company's business including its IT infrastructure and its vendor account information. Also, LottoNet's former office manager identified LottoNet

accounts at Bank of America and initially corroborated that the known assets of the Receivership Entities were limited.

At the same time, Mr. Schwartz began sending letters to LottoNet employees and service providers advising them, among other things, of their termination and that pursuant to the Order, they were to preserve any LottoNet assets in their possession and provide an accounting of the same.

**C. Establishing Control Over Bank Accounts & Financial Information.**

On March 21, 2017, the same day the Court signed the asset freeze order, the SEC promptly notified all of the financial institutions where LottoNet maintained bank accounts, thereby ensuring the financial assets were secure. Over the next few days, I established exclusive access and control over these bank accounts by faxing the Receivership Order, along with a cover letter, to all known financial institutions directing them to (1) freeze any and all accounts of the Receivership Entities; (2) provide the Receiver with a summary of all such accounts; and (3) take all necessary steps to make all such accounts accessible to the Receiver and ensure that the Receiver is the sole signatory to each such account. As the vast majority of the accounts of the Receivership Entities appeared to be maintained at Bank of America (“BOA”), Mr. Sloman and I personally met with the BOA branch manager located at 1 SE Third Avenue, Miami, Florida to identify all of the accounts associated with the Receivership Entities and to transfer control of those accounts to me as the Receiver. As a result of our efforts, as of June 1, 2017, the following net cash amounts are currently segregated in the following Estate accounts:

<b>Account</b>	<b>Financial Institution</b>	<b>Net Cash Amount</b>
LottoNet Operating Corp.	BOA	\$35,425.40 <sup>4</sup>
CRM Edge LLC	BOA	\$68.74 <sup>5</sup>
Global Refund Corporation	BOA	\$3,551.30 <sup>6</sup>
CRM Interactive Technologies LLC	BOA	\$8,223.06 <sup>7</sup>
LN Concierge LLC	BOA	\$65.00
<b>Total Cash Amount</b>		<b>\$47,333.50</b>

On March 22, 2017, we identified and contacted one of LottoNet's former bookkeepers and provided her with a copy of the Receivership Order. In response, she provided us with a copy of LottoNet's 2015 General Ledger detail report, advised us that LottoNet utilized Intuit's online Quickbooks accounting system, and also provided me with a username and password for that system. By March 23, 2017, we had provided Intuit with the Receivership Order and Intuit confirmed that it had preserved the LottoNet Operating Group Quickbooks online accounts. By analyzing the accounts, we identified numerous LottoNet shareholders and the identities of multiple sales agents who received significant commissions, including Royce Teets<sup>8</sup> and Joseph Vitale.<sup>9</sup>

#### **D. Investigating LottoNet Peru S.A.C.'s Assets.**

At the time I was appointed receiver over LottoNet, its sales agents were actively soliciting investors to purchase shares of LottoNet Peru S.A.C. ("LNP"). During my initial review of the paper records in LottoNet's office, I also discovered that on February 24, 2017,

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<sup>4</sup> This net cash amount is deposited in eight (8) separate LottoNet Operating Corp. accounts.

<sup>5</sup> This net cash amount is deposited in two (2) separate CRM Edge LLC accounts.

<sup>6</sup> This net cash amount is deposited in two (2) separate accounts under the name "Global Fefund [sic] Corporation" accounts.

<sup>7</sup> This net cash amount is deposited in two (2) separate CRM Interactive Technologies LLC accounts.

<sup>8</sup> On July 12, 2016, Mr. Teets was charged with murder in the 2<sup>nd</sup> degree in connection with the death of his fiancée.

<sup>9</sup> In 2011, Joseph Vitale, a/k/a "Donovan Kelly" was permanently barred from the securities industry by the Financial Industry Regulatory Authority.

LottoNet transferred \$72,000 of investor money to an account in LNP's name at Banco Internacional del Peru ("InterBank").

Updated as recently as February 21, 2017, LottoNet prepared and provided to potential LNP investors a "shareholder discovery" packet and subscription agreement. According to these documents, the government of Peru granted LottoNet, through its subsidiary LNP, "an exclusive ten-year lottery and gaming license, with unlimited options to renew every five years thereafter." LottoNet represented to investors that the license LNP received from Peru authorized it to operate its own lottery in Peru as well as sell U.S. lottery tickets to Peruvian nationals. The LNP offering materials described LNP as a subsidiary of LottoNet, and an addendum to the subscription agreement provided that if LNP did not acquire the proper licensing from the Government of Peru, LNP investors' shares would "roll over" into shares of LottoNet, "its domestic Parent company." The offering materials called for investors to transfer funds to purchase LNP shares to a Bank of America account in LottoNet's name and controlled by LottoNet.

Pursuant to this information, I began to investigate whether LNP actually owned a license in Peru, the value of the license, if any, and what assets could be recovered to benefit the Receivership Entities. Based on my review of LottoNet documents, counsel for the Recover and other members of my staff identified LNP's Peruvian counsel, Ever Santillan, and held a telephone conference with him on April 3, 2017, to advise him of the Receivership and to inquire as to what assets LNP possessed in Peru. Mr. Santillan advised that LNP did obtain a license from the Government of Peru to operate a lottery, and that LNP was required to maintain a bank account in Peru with a certain balance to demonstrate its financial wherewithal to pay out winnings. As a result, LNP maintains an account at InterBank, which he stated currently holds

\$90,000, which is \$18,000 more than the identified transfer of funds from a LottoNet Bank of America account to the InterBank account.<sup>10</sup> According to Mr. Santillan, the withdrawal of those funds would result in the forfeiture of LNP's license.

Based upon Mr. Santillan's representations, I have decided not to seek repatriation of LNP's InterBank funds until I can ascertain the actual value of the license and whether it could be sold to a third party. Counsel for the Receiver is currently in the process of investigating the value and alienability of the license. Upon the conclusion of their investigation, I will advise the Court of their findings.

**E. Identifying and Assessing the Value of Physical Assets in LottoNet's Office.**

During my initial walk-through of the Premises on March 21, 2017, I noted that there was a wide-variety of valuable property on the premises including more than a dozen computers and monitors, several iPhones and other mobile devices, several flat screen televisions, numerous VoIP phones and related networking equipment, a pool table, and a wide variety of office furniture and fixtures. Within a few days after being appointed Receiver, I began to evaluate whether these items should be sold at a public auction, not only so that I could recoup money for LottoNet investors, but also so that I could quickly empty and vacate LottoNet's rented office suite to avoid any further obligations under the sublease agreement. Based on my initial assessment of LottoNet's finances, I concluded that a sale of the physical assets was warranted.

During my work on this matter, including my analysis of whether to sell LottoNet's physical assets, I established and maintained contact with SNE, the company that subleased the office space to LottoNet, through its attorney, Todd Stone, Esq. Based on my conversations with Mr. Stone, I learned that LottoNet was not the lawful owner of many of the physical assets

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<sup>10</sup> I am in the process of verifying the account balance in LNP's InterBank account.

located within its office suite. Indeed, Mr. Stone explained that the office suite was already a fully-furnished and functional call center when it was subleased to LottoNet. In other words, LottoNet had essentially subleased a turn-key operation. Mr. Stone verified this information by providing me with a copy of the January 26, 2016, sublease between SNE and David Gray/LottoNet, which contained a list of landlord-owned property.

Although the sublease agreement was a helpful starting point, I wanted to ensure that I could accurately identify which assets belonged to SNE, so I arranged to meet with Mr. Stone and the managing member of SNE at the Premises on April 6, 2017 to conduct a physical inventory. Over the course of multiple hours, we tagged every significant physical asset—including desks, credenzas, office chairs, computers, monitors, VoIP phones, networking equipment, filing cabinets, refrigerators, kitchen equipment and various office decorations—to identify whether it belonged to LottoNet or SNE. Shortly after we concluded the physical inventory, Mr. Stone called me to extend an offer in principle on behalf of SNE to purchase all of LottoNet's physical assets for a reasonable bulk price.

Although my original intent was to seek Court approval to hire an auctioneer to conduct a public auction of LottoNet's assets, as explained above, I later concluded that the offer presented by SNE warranted serious consideration for at least two reasons. First, the physical inventory revealed that a majority of the valuable physical assets were owned by SNE, not LottoNet. Second, my staff conducted market research, which included contacting a local auction company, and they discovered that an auction could cost upwards of \$5,000 and require at least four weeks of advance notice. Thus, it became evident that the cost of the auction would consume a significant portion of the sale proceeds, and further delay LottoNet's ability to vacate

the premises, thereby exposing the company to additional lease liability at the rate of \$5,700 per month.

Based on all of the foregoing, I have been engaged in negotiations with Mr. Stone over the course of several weeks regarding the sale of the assets. To facilitate this negotiation, I instructed a member of my staff to create a detailed spreadsheet of LottoNet's physical assets, and to come up with a reasonable estimate of the "new" and "used" value of each asset using available receipts, and by conducting research on various internet sites including Amazon.com and Ebay.com. SNE has evaluated that asset list and has conveyed a preliminary purchase offer. Together with counsel to the Receiver, I will carefully evaluate this offer, and then compare it with the likely outcomes to be achieved at a public auction. Thereafter, I will file an appropriate motion with the Court seeking approval for the disposition of these assets.

**F. Negotiating Termination of the Sublease.**

During the time that I have been negotiating with SNE regarding the sale of LottoNet's physical assets, I have also been negotiating for a favorable settlement of any sublease payments due and owing. As set forth above, I examined the sublease agreement to evaluate its terms and conditions, and am working cooperatively with the sublessor to determine the amount due, and to ascertain when the last rent payment was made prior to my appointment as Receiver. I will explore whether there are any legal means to reduce or avoid this lease obligation. Alternatively, I will seek to have this lease obligation offset or reduced by the value of any LottoNet assets that SNE chooses to purchase, assuming that I ultimately conclude, and the Court agrees, that a private sale is in the best interests of the Receivership Estate.

**IV. ASSUMED CONTROL OVER LOTTONET'S CRITICAL DATA, INFORMATION AND ASSETS**

**A. Securing LottoNet Data Accounts.**

As set forth above, on March 22, 2017, my team secured a list of LottoNet's information technology vendors. These vendors hosted LottoNet's databases and corporate records, and also provided a variety of technology and telecommunication services. These vendors included such companies as Google, GoDaddy, Amazon, International Telecom, Ltd., Inc., d/b/a kall8.com<sup>11</sup> and Answer Connect Solutions.<sup>12</sup> On March 22, 2017, each identified company was provided with the Receivership Order and a cover letter, either via facsimile or email, instructing it to immediately preserve all data, block outside access to the accounts and change any and all passwords to facilitate my exclusive control over the accounts. We followed up those facsimile and email notifications with formal service of process through the entities' registered agents.

Since I am not an IT professional, we relied on a former employee from LottoNet's Information Technology department and on LottoNet former chief executive officer, David Gray, to help us obtain an understanding of LottoNet's complex IT architecture. Over the course of several telephone conferences and/or in-person meetings, they explained various IT infrastructure issues. In the process, we also learned that LottoNet used a Google enterprise account (G Suite account) to host its corporate emails and store its important documents on a shared, cloud-based Google Drive. We were eventually able to secure the data in LottoNet's Google enterprise account.

On March 31, 2017, we accessed LottoNet's account with GoDaddy.com, and given the fact that LottoNet had minimal revenue from its purported "lottery concierge" service and the

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<sup>11</sup> This vendor operated all telephone numbers associated with LottoNet.

<sup>12</sup> This vendor provided call answering services to LottoNet's toll-free number.

fact that the company had no employees to operate it, I took LottoNet's external website, "getlottonet.com," offline.

**B. Securing LottoNet's CRM Edge Database.**

Based upon my examination of corporate documents and records, my interviews of former LottoNet employees, and my review of David Gray's deposition testimony, I learned that David Gray and other LottoNet employees, together with various offshore computer programmers, had developed, using LottoNet investor funds, a sophisticated customer relationship management software package known as "CRM Edge." Within days after being appointed as Receiver, I gained access to the CRM Edge system utilizing a username and password that was provided to me by a former LottoNet employee. After I gained access to CRM Edge, I spent several hours reviewing its contents and generating various reports. I quickly concluded that CRM Edge contained a treasure trove of information that would assist me and federal law enforcement agencies in recovering investor funds and in performing countless other receivership tasks.

Indeed, my initial review of the CRM Edge system revealed that it contained critical data including: (i) the name, address, telephone number and email address of LottoNet's investors, (ii) the total amount invested by each investor, (iii) the date of each investment, (iv) the names of LottoNet's sales agents, (v) the total amount of investor funds raised by each LottoNet sales agent, with the ability to sort by investor and by date, (vi) a complete log of all calls made to investors, (vii) a complete record of the documents that were sent to each investor, and (viii) recordings of several of the phone calls that were made to LottoNet's investors.

Given the critical importance of the information hosted in the CRM Edge system, I spent literally dozens of hours troubleshooting the system to maintain its functionality and preserve its

data. During the extensive and arduous troubleshooting process, we learned that the CRM Edge is a complex graphical user interface that draws data from cloud-based databases hosted by Amazon Web Services and other supporting web sites. Given my lack of training or expertise in the field of IT, and given the fact that the Receivership Entities do not have adequate resources to hire an independent information technology professional, we had no choice but to establish contact with and re-engage one of LottoNet's offshore developers that was directly involved in the development of the CRM Edge software. This offshore developer had a detailed understanding of the CRM Edge system, and proved to be a reliable, invaluable, and economical option to help us maintain the functionality of CRM Edge.

In order to maintain CRM Edge's functionality, which I found to be in the best interest of the Receivership Entities, I paid \$715 to the offshore developer for past due fees incurred prior to my appointment as Receiver, as well as additional fees incurred during the above-referenced troubleshooting process. In addition, to date I have paid \$1,906.89 to Amazon Web Services to maintain the cloud-based database that is critical to the functioning of the CRM Edge software. Finally, I have paid to date approximately \$177 to Google to maintain LottoNet's corporate email accounts, as well as its shared Google Drive, which both host crucial data and evidence that will allow me to identify claims to recover investor funds.

## **V. IDENTIFIED AND COMMUNICATED WITH LOTTONET INVESTORS**

### **A. Identifying & Notifying Investors of the Receivership.**

As set forth above, we located, preserved and reviewed documents from the Receivership Entities, as well as data from CRM Edge, to identify all investors. On April 5, 2017, we commissioned the following website for the Receivership: <http://www.sslawyers.com/lottonetreceivership/>. This website provided a location for all

interested individuals, including investors, to obtain information about the Receivership including publicly filed documents such as court orders.

On April 6, 2017, we sent each identified investor via email and United States mail a letter which explained the nature and purpose of the Receivership as well as my duties as Receiver and directed them to the above-mentioned website to obtain copies of the Court's orders and other relevant information. I also advised investors that they could direct any inquiries or information to the following email address: [lottonet.receivership@sslawyers.com](mailto:lottonet.receivership@sslawyers.com).

Due to the immediate and overwhelming response from investors, I scheduled and held a conference call with investors on April 10, 2017, where Mr. Schwartz and I answered certain basic questions posed by investors, but declined to offer them any legal advice regarding their rights or potential legal remedies. Going forward, I intend to hold such conference calls on a periodic basis.

## **VI. THE RELIEF DEFENDANTS**

Although LottoNet has consumed the majority of my time over the last two months, I have also investigated the assets of the Vitale-controlled entities that the Court placed into the Receivership—CRM Interactive, LLC, The Council Club LLC, and Oracle Marking Group, Inc. (collectively, the “Relief Defendant Entities”).

Upon my appointment as Receiver, I obtained the current bank balances of the entities and learned that they have limited cash assets. Moreover, I have received and reviewed the Relief Defendant Entities' bank statements to investigate any potential clawback claims. My investigation is ongoing. I will coordinate with the SEC and advise the Court of any claims that I intend to pursue on behalf of the Relief Defendants.

## **VII. LEGAL MATTERS**

### **A. Filing Notice of the Receivership in Other Districts.**

Within ten (10) days of my appointment, I filed a copy of the SEC's Complaint along with a certified copy of the Receivership Order in accordance with 28 U.S.C. § 754 in five (5) federal districts nationwide. As each filing requires the payment of a filing fee, I initially filed only in districts where I believed, within the first ten (10) days, that there may be potential Receivership Estate property. As my investigation continues, I will likely seek reappointment from this Court as Receiver to file in accordance with 28 U.S.C. § 754 in additional districts in the near future.

### **B. Attending Court Hearings and Depositions.**

On March 28, 2017, I attended the Preliminary Injunction Hearing before Magistrate Judge Jonathan Goodman in order to serve as a witness. Although I was fully prepared to testify, the Court permitted my counsel to proffer a summary of my testimony.

On April 5, 2017, I attended the videotaped deposition of Defendant David Gray. During the full-day deposition, through counsel, I inquired into matters relating to LottoNet and its affiliates' finances as well as LottoNet's fundraising and operations. On March 23, 2017, my counsel appeared by telephone for Defendant Vitale's deposition. Defendant Vitale, however, failed to appear.

### **C. Sending Demand Letters to Former Counsel and Large Shareholders.**

My counsel has also quickly sent letters to attorneys who previously represented LottoNet requesting copies of their files and any funds held in trust accounts. To date, my attorneys have obtained all known files from the attorneys who represented LottoNet and are in the process of reviewing such information.

In addition, my counsel has sent demand letters to a number of large LottoNet shareholders and purported service providers who have received significant funds from LottoNet requesting, among other things, a full accounting and justifications for the payments received. Upon receipt and review of this information, I will coordinate with the SEC and advise the Court of any claims that I intend to pursue on behalf of the Receivership Entities.

**D. Investigating Third Party Claims.**

Counsel for the Receiver has identified potential claims and will coordinate the Receivership's efforts with that of the SEC and other law enforcement agencies.

**VIII. CURRENT ESTATE FINANCIAL INFORMATION**

As explained above, we quickly took control of all U.S. bank accounts in the name of the Receivership Entities and their affiliates. Those bank balances are set forth in Section III.C. above. In addition, we identified a Peruvian bank account in the name of LottoNet affiliate LNP, which holds at least \$72,000.

On the liability side, I am currently in the process of reviewing invoices to identify the Receivership Entities' creditors and the debts owed. In accordance with the Order, I have also paid certain necessary expenses in carrying out my duties and responsibilities as Receiver. Specifically, the following tables<sup>13</sup> reflect the Receivership Estate's outstanding vendor invoices, as well as expenses that were paid based on my instruction after being appointed as Receiver<sup>14</sup>:

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<sup>13</sup> Due to limited nature of the Estate's assets, the financial information available to me, and the disbursements made by the Estate this quarter, I believe that the Standard Fund Accounting Report would be of no benefit to the Court or investors, and have therefore decided to present the Estate's limited finances in a format better suited to detail the Estate's finances.

<sup>14</sup> To date, my firm Stumphauzer & Sloman has incurred the expenses paid. I will seek reimbursement from the Court in my forthcoming application to approve payment of fees and expenses.

*Identified Outstanding Vendor Invoices*<sup>15</sup>

<b><u>Vendor</u></b>	<b><u>Amount</u></b>	<b><u>Invoice Date</u></b>
S.N.E. Investments, LLC	\$11,400.00	Per Lease
MegaPath	\$1,426.30	5/17/2017
Comcast Business	\$1,252.42	5/1/2017
Amscot	\$1,130.00	3/23/2017
FedEx	\$8.71	4/3/2017
FedEx	\$50.20	3/24/2017
FedEx	\$9.75	3/27/2017
T-Mobile	\$3,315.34	5/3/2017
IT Nguyễn Nhật Hoá	\$1,920.00	3/27/2017
IT Nguyễn Nhật Hoá	\$1,920	3/20/2017
IT Nguyễn Nhật Hoá	\$1,920	3/13/2017
IT Nguyễn Nhật Hoá	\$5,760.00	10/31/2016
AnswerConnect	\$248.00	4/18/2017
Affinity Resources, LLC	\$1,014.80	11/15/2016
Affinity Resources, LLC	\$913.32	11/22/2016
Affinity Resources, LLC	\$1,014.80	11/29/2016
Affinity Resources, LLC	\$811.84	12/6/2016
Affinity Resources, LLC	\$1,014.80	12/13/2016
Affinity Resources, LLC	\$1,014.80	12/20/2016
Affinity Resources, LLC	\$926.01	12/27/2016
Affinity Resources, LLC	\$123.20	1/3/2017
Affinity Resources, LLC	\$1,115.20	2/21/2017
Affinity Resources, LLC	\$1,746.00	2/28/2017
Affinity Resources, LLC	\$1,224.00	3/7/2017

Total: \$29,879.49

<sup>15</sup> By including vendor invoice information in this table, I do not take any position regarding the validity of these invoices, or whether there are legal means to reduce or avoid these debts. Instead, this table is merely intended to convey the amounts that vendors claim they are owed.

*Vendor Payments Made by Receiver*

<u>Vendor</u>	<u>Amount</u>	<u>Invoice Date</u>
Office Supplies	\$250.26	3/22/2017
Locksmith	1,524.00	3/21/2017
Amazon Web Services	1,906.89	4/3/2017
Computer IT programmer	715.00	4/20/2017
PaperStreet Receivership Website	350.00	5/3/2017
Google G Suite Account	177.00	5/24/2017

Total: \$4,923.15

**IX. CONTINUING INVESTIGATION OF RECEIVERSHIP AFFAIRS**

In addition to the efforts enumerated above regarding marshaling assets, I anticipate that I will provide services in connection with the Receivership Entities including, but not limited to:

- Communicating and coordinating recovery efforts with the SEC;
- Analyzing potential claims to be pursued on behalf of the Receivership Estate;
- Researching and evaluating any potential assets belonging to the Receivership Entities;
- Researching transfers of Receivership funds to various entities and individuals;
- Determining the value and marketability, if any, of the LottoNet Peru S.A.C. license;
- Concluding negotiation of the termination of LottoNet's sublease and vacate the Premises;
- Selling LottoNet's physical assets, and seeking Court approval to do the same; and
- Holding additional conference calls with LottoNet investors.

**X. CONCLUSION**

In conclusion, I am continuing to carry out my directives under the Receivership Order. The facts and conclusions in this First Report are subject to change as my investigation progresses during the course of the Receivership.

Dated: June 1, 2017.

Respectfully submitted,

s/ Ryan K. Stumphauzer

Ryan K. Stumphuazer, Esq.

Not individually, but solely in my capacity as Receiver for LottoNet Operating Corp., Oracle Marketing Corp., CRM Interactive LLC, and The Council Club LLC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 1, 2017, I electronically filed the above document using CM/ECF. I also certify that the foregoing document is being served this day on all parties, witnesses, and counsel of records identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those who are not authorized to receive electronically Notices of Electronic Filing

s/ Adam L. Schwartz

Adam L. Schwartz, Esq.

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