

**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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**RECEIVER'S FINAL STATUS REPORT AND  
MOTION TO CLOSE RECEIVERSHIP**

Ryan K. Stumphauzer, Esq., the Court-appointed Receiver ("Receiver") for LottoNet Operating Corp. ("LottoNet"), Oracle Marketing Group Inc., CRM Interactive LLC, the Council Club LLC, and their affiliates, subsidiaries, successors and assigns (collectively, the "Receivership Entities" or "Estate"), hereby files this Final Status Report to inform the Court of his activities to date, and moves the Court to enter an order 1) directing the Receiver to conclude the business of the Receivership; and 2) relieving the Receiver of any further obligations with regard to this matter.

**I. EXECUTIVE SUMMARY**

In consideration of the limitations and challenges further described below, the Receiver believes that he has fully satisfied or, as explained herein, has made the necessary efforts and preparations to satisfy his obligations in this matter. The Receiver's and others' work have been

described in various reports and other filings made during the course of this case. *See* First Report of Receiver filed on June 1, 2017 [ECF No. 61]; Receiver’s First Interim Joint Application for Allowance and Payment of Compensation and Reimbursement of Expenses for Receiver and his Counsel (“the “Interim Application”) filed on June 17, 2017 [ECF No. 67]; Second Report of Receiver filed on November 3, 2017 [ECF No. 75]; Status Report filed on May 18, 2018 [ECF No. 89]. As explained in those prior filings, the Receiver has:

- 1) provided information to LottoNet’s investors through a website and other forms of communication;
- 2) physically secured LottoNet’s corporate office and established control over a LottoNet mailbox located within a U.P.S. Store located at 49 North Federal Highway, #340, Pompano Beach, FL 33062;
- 3) communicated and coordinated with LottoNet’s contracted offshore computer programmers and LottoNet’s former information technology employees to (a) preserve documents and digital evidence, (b) secure and preserve cloud-based sources of evidence, (c) maintain the functionality of the CRM Edge database, a sophisticated customer relationship management software package that served as a crucial source of information, and (d) identify and assess the value of tangible and intangible assets, including the proprietary CRM Edge software;
- 4) established exclusive access and control over LottoNet’s bank accounts;
- 5) negotiated and sold, with the Court’s permission, all of LottoNet’s physical assets for a reasonable bulk price to the sublessor of LottoNet’s corporate office to offset the value of LottoNet’s outstanding sublease payments due and owing, including the costs of repairs to the office space;

- 6) notified the SEC and other law enforcement entities of additional and ongoing schemes seemingly designed to defraud LottoNet's investors after the Court appointed the Receiver;
- 7) identified and satisfied outstanding vendor invoices;
- 8) fielded and reviewed offers from third parties to purchase LottoNet assets and related letters of intent;
- 9) investigated the potential value of licenses and other assets that are allegedly held by LottoNet Peru, S.A.C. ("LottoNet Peru");
- 10) made repeated and substantial efforts to communicate with Banco Internacional del Peru ("Interbank") via telephone and international mail directing Interbank to freeze any and all of the funds, assets, accounts or properties of LottoNet Peru, attempted to obtain a summary of all accounts or properties of LottoNet Peru which are maintained by or at Interbank, and attempted to obtain access and control over all accounts and properties of LottoNet Peru held by Interbank;
- 11) attempted to repatriate any funds held in LottoNet Peru's name at Interbank by seeking the assistance of the Securities and Exchange Commission ("SEC") with identifying the appropriate steps to liquidate and repatriate those funds;
- 12) having been unable to repatriate the funds held at Interbank, coordinated with the Department of Justice so that it could repatriate any LottoNet funds or assets held by Interbank pursuant to the restitution orders issued in *United States v. David Gray*, 17-60212-CR-ALTONAGA (S.D. Fla. Feb. 2, 2018) [ECF No. 26], and *United States v. Joseph Vitale*, 17-60102-CR-BLOOM (S.D. Fla. Oct. 25, 2017) [ECF No. 36];

13) and, after discussion and evaluation of implementing a claims process, the Receiver, in consultation with the SEC, has determined that there are insufficient funds to conduct a claims process.

Furthermore, the SEC has obtained a Final Default Judgment against Defendants LottoNet and Relief Defendants CRM Interactive, LLC, Oracle Marketing Group, Inc., and The Council Club LLC [ECF No. 87], and has advised the Receiver that it consents to the termination of the Receivership as provided herein. Accordingly, the Receiver files this Final Report and respectfully moves this Court to enter the orders the Receiver believes necessary to conclude this matter.

## **II. FINAL REPORT**

### **A. Final Fee Motions.**

Given the Estate's lack of funds, the Receiver and the Receiver's counsel will not file a final fee application for the necessary and beneficial services rendered to the Estate from May 1, 2017 to the present. Indeed, the total funds in the Estate's bank accounts will be insufficient to fully reimburse the Receiver and Receiver's counsel for the fees and expenses previously authorized by the Court, totaling \$53,930.74 (comprised of \$67,413.43 in fees net a 20% holdback) and \$5,512.54 in expenses. Thus, the Court need not rule upon any fee petitions or other motions regarding distribution of Estate assets when ruling upon this Final Report and Motion to Close the Receivership. For informational purposes only, the Receiver includes below charts summarizing the fees and expenses incurred by the Receiver, his staff, and his counsel subsequent to their initial fee application:

**Summary of Receiver's Time  
from May 1, 2017 through September 14, 2018**

The following is the aggregate tabular summary for the Receiver:

<b>Name of Professional</b>	<b>Hourly Rate</b>	<b>Time</b>	<b>Fee calculation</b>
Ryan K. Stumphauzer	\$325	53.8	\$18,105.00
Jeffrey Sloman	\$325	24.68	\$8,019.83
Christopher Gottfried	\$250	.80	\$200.00
Jorge Pérez Santiago	\$250	41.7	\$10,425.00
Jennifer Dempsey	\$75	1.00	\$75.00
Janet Diaz	\$75	.40	\$30.00
<b>Subtotal:</b>		<b>121.58</b>	<b>\$36,854.83</b>
<b>Total with 20% Holdback</b>			<b>\$29,483.86</b>

**Summary of Receiver's Counsel's Time  
from May 1, 2017 through September 14, 2018**

The following is an aggregate tabular summary for the Receiver's counsel:

<b>Name of Professional</b>	<b>Hourly Rate</b>	<b>Time</b>	<b>Fee Calculation</b>
Adam L. Schwartz	\$320	72.60	\$23,232.00
Cara Grand	\$220	5.80	\$1,276.00
Yaniv Adar	\$250	4.10	1,007.00
Antonio Hernandez	\$275	.70	\$192.50
<b>Subtotal:</b>		<b>83.20</b>	<b>\$25,707.50</b>
<b>Total with 20% Holdback</b>			<b>\$20,166.00</b>

<b>Total Hours by Receiver and Firm:</b>	<b>204.78</b>
<b>Total Fees of Receiver and Firm (With 20% Holdback):</b>	<b>\$49,649.86</b>

In sum, the Receiver and his associates have expended a total of 121.58 hours from May 1, 2017 to September 14, 2018, and the Receiver's counsel has expended a total of 83.20 hours from May 1, 2017 to September 14, 2018, in rendering necessary and beneficial services to the Estate.

**B. Continued Efforts to Repatriate LottoNet Peru Funds**

The procedural history of this case and the activities of the Receiver have been thoroughly described in the Receiver's previous reports. *See* ECF Nos. 61, 75, 89. The only new developments since the Receiver's Status Report [ECF No. 89] are that the Receiver made several unsuccessful efforts to communicate with Interbank and its attorneys via telephone, international mail, and electronic mail. Notably, the Receiver sent correspondence via international mail directing Interbank to: (1) freeze any and all of the funds, assets, accounts or properties of LottoNet Peru, (2) provide the Receiver with a summary of all accounts or properties of LottoNet Peru which are maintained by or at Interbank, and (3) make all accounts and properties of LottoNet Peru accessible to the Receiver. Interbank, however, refused to respond to the Receiver's request.

Subsequently, the Receiver requested assistance from the SEC's Office of International Affairs to liquidate and repatriate the funds held at Interbank, but was informed that the liquidation and repatriation process would be a difficult and enduring process with no guarantee of success. The Receiver then requested that the Department of Justice exercise its authority pursuant to the above-referenced restitution orders to recover the funds held at Interbank and distribute those funds to victims of the underlying securities fraud. The Receiver anticipates that the Department of Justice has access to diplomatic channels unavailable to the Receiver to pursue these funds.

**C. The Receiver Has Accounted for the Assets and Liabilities of the Estate**

The Receiver has now exhausted all reasonable efforts to marshal and safeguard the assets of LottoNet and has identified the Receivership's liabilities. Pursuant to paragraph 56 of the Order

[ECF No. 12], the Receiver submits the following information and charts in support of his Final Accounting.

As explained in several prior filings with the Court, the Receivership Entities are operating at a deficit when factoring in the Estate's minimal assets, extensive purported outstanding liabilities, costs incurred by the Receiver, his staff, and his counsel, and the attorney's fees approved by this Court for the necessary and beneficial services provided by the Receiver, his staff, and his counsel.<sup>1</sup> ECF Nos. 61, 67, 75, and 89. Thus, after extensive discussion among the Receiver, his counsel, and the SEC and in consideration of the Receivership Entities' minimal assets and funds, the SEC consents to the termination of the Receivership and agrees with the Receiver's decision not to seek the Court's authorization to commence a claims process for the submission and determination of claims submitted by victim-investors and creditors.

As indicated in the First Report of Receiver [ECF No. 61], the vast majority of the assets maintained by the Receivership Entities were funds held in accounts at Bank of America ("BOA"), and as of the filing of this Final Status Report and Motion to Close Receivership, the net cash amounts located in the Estate accounts remain the same as indicated in the Status Report [ECF No. 89].

On September 27, 2018, however, the Receiver initiated the process to authorize BOA to disburse those funds for payment of the Receiver's and his counsel's fees and expenses pursuant to the Court's February 26, 2018 order authorizing interim compensation and reimbursement of

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<sup>1</sup> The Receiver and Receiver's counsel delayed disbursing Court-authorized fees and expenses to themselves because it would have depleted the Estate's minimal assets while the Receiver was still exhausting all reasonable efforts to marshal and safeguard additional Estate assets. Thus, the Receiver and his counsel did not receive payment for necessary services rendered to the Estate until the Receiver and his counsel could confer with the SEC regarding termination of the Receivership and determine whether commencement of a claims process would be productive.

expenses to the Receiver and his counsel.<sup>2</sup> ECF No. 83. Specifically, the Court authorized interim compensation to the Receiver in the amount of \$32,129.00 (comprised of \$40,161.25 in fees net a 20% holdback) for the period of March 21, 2017 through April 30, 2017; interim compensation to Homer Bonner Jacobs, P.A. in the amount of \$21,801.74 (comprised of \$27,252.18 in fees net a 20% holdback) for the period of March 21, 2017 through April 30, 2017; and interim reimbursement of expenses to the Receiver and Homer Bonner Jacobs, P.A. in the total amount of \$5,512.54. ECF No. 83. Due to insufficient funds in the Estate accounts, the Receiver will distribute the previously approved costs to the Receiver and counsel for the Receiver, Homer Bonner Jacobs, P.A., and pay each their approved fees on a *pro rata* basis. Thus, the Receiver anticipates that these BOA accounts will soon reflect balances of zero.

On the liability side, apart from work performed by the Receiver's staff and his counsel after the Interim Fee Application [ECF No. 67], the following charts reflect information that has not changed since the Second Report of Receiver filed on November 3, 2017:

***Identified Outstanding Vendor Invoices<sup>3</sup>***

<b><u>Vendor</u></b>	<b><u>Amount</u></b>	<b><u>Invoice Date</u></b>
MegaPath	\$0	7/19/2017
Comcast Business	\$1,252.42	5/1/2017

<sup>2</sup> The Receiver and his counsel submitted an Interim Fee Application [ECF No. 67] wherein the Receiver requested that the Court authorize payment of the \$4,412.54 in costs and \$6,000 in fees to the Receiver and \$5,000 in fees to the Receiver's legal counsel, substantially less than the Receiver's and his counsel's fees – \$57,956.80 – and their joint costs – \$5,512.54.

<sup>3</sup> By including vendor invoice information in this table, the Receiver does 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. Moreover, given the fact that the Court-approved fees and expenses well exceed the Receivership Estate's assets, there are insufficient funds to fully satisfy the above invoices.

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 Nhất Hoá	\$1,920.00	3/27/2017
IT Nguyễn Nhất Hoá	\$1,920	3/20/2017
IT Nguyễn Nhất Hoá	\$1,920	3/13/2017
IT Nguyễn Nhất 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	\$1,796.01	12/27/2016
Affinity Resources, LLC	\$870.00	1/03/2017
Affinity Resources, LLC	\$123.20	1/3/2017
Affinity Resources, LLC	\$870.00	1/10/2017
Affinity Resources, LLC	\$870.00	1/17/2017
Affinity Resources, LLC	2,094.00	1/31/2017
Affinity Resources, LLC	\$731.00	1/24/2017
Affinity Resources, LLC	\$2,094.00	2/07/2017
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
Savage Global Marketing	\$3,000	2/15/2017
My Simple Techs	\$250	1/18/2017
My Simple Techs	\$250	1/4/2017
Clean Space	\$1,365	3/6/2017
Clean Space	\$1,365	4/5/2017

Total: \$43,008.2

***Vendor Payments Made by Receiver***

<b><u>Vendor</u></b>	<b><u>Amount</u></b>	<b><u>Invoice Date</u></b>
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
UPS Store Mailbox	\$34.00	6/22/2017
Forensic Computer Expert	\$1,200.00	8/31/2017

Total: \$6,157.15

***Vendor Payments Made by Receiver's Counsel***

<b><u>Vendor</u></b>	<b><u>Amount</u></b>
Filing Fee for the District Court of Delaware	\$47.00
Filing Fee for the District Court of Arizona	\$47.00
Filing Fee for the District Court of New York	\$47.00

Filing Fee for the Northern District Court of Florida	\$47.00
Filing Fee for the Middle District Court of Florida	\$47.00
Express Mail (FedEx)	\$145.63
Photocopies	\$495.25
Postage	\$17.58
Long Distance Telephone Calls	\$70.75
Pacer/Westlaw Research	\$100.18
Parking Fees	\$52.00
<b>Subtotal:</b>	<b>\$1,116.39</b>

In conclusion, the Estate does not have any remaining assets, but has total outstanding expenses and liabilities of \$53,282.97, consisting of debts purportedly owed to the vendors identified above and the unpaid portions of Court-approved compensation owed to the Receiver and his counsel. Moreover, the Receiver did not include any legal fees and costs for services rendered and expenses incurred by the Receiver and his counsel after May 1, 2017 as part of this calculation because the Receiver and his counsel agreed to forego compensation for those services.

### **III. RELIEVE THE RECEIVER OF ALL FURTHER OBLIGATIONS**

For the reasons stated herein, the Receiver respectfully requests to be relieved of all further duties and obligations as Receiver in this matter. Counsel for the Receiver has conferred with counsel for the SEC, Amie Riggle Berlin, Esq., who has reviewed this Final Report and Motion and has advised the Receiver that the SEC has no objection to the Report or the relief sought herein.

### **IV. NOTIFICATION OF ALL LOTTONET INVESTORS**

The Receiver will post a copy of this Final Report and Motion to Close the Receivership on the Receiver's website (<http://www.sslawyers.com/lottonetreceivership/>).

WHEREFORE, the Receiver respectfully requests that this Court enter an Order approving this Final Report and granting the motions made herein. A proposed order is provided for the convenience of the Court. It has been an honor to serve this Court as Receiver.

Dated: September 28, 2018.

Respectfully submitted,

s/ Ryan K. Stumphauzer

Ryan K. Stumphauzer, 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 September 28, 2018, 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 Notices of Electronic Filing.

s/ Adam L. Schwartz

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**ORDER GRANTING MOTION TO CLOSE RECEIVERSHIP**

THIS CAUSE came before the Court upon Receiver Ryan K. Stumphauzer's (the "Receiver[']s") Final Status Report and Motion to Close Receivership. Being fully advised, it is

ORDERED AND ADJUDGED that the Motion is GRANTED. As of the date of this Order, Receiver Ryan K. Stumphauzer is relieved of all further duties and obligations as Receiver for Defendants LottoNet Operating Corp., Oracle Marketing Group, Inc., CRM Interactive, LLC, the Counsel Club LLC, and their affiliates, subsidiaries, successors and assigns.

DONE AND ORDERED in Chambers at Miami, Florida this \_\_\_\_ day of October, 2018.

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JOAN A. LENARD  
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record