

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

Case No. : 6:16-CV-02123-Orl-31DCI

v.

J. WILLIAM ENTERPRISES, LLC, a Florida
limited liability company, also d/b/a PRO
TIMESHARE RESALES;

PRO TIMESHARE RESALES OF FLAGLER
BEACH, LLC, Florida limited liability company;

JESS KINMONT, individually and as an officer
of J. WILLIAM ENTERPRISES, LLC and PRO
TIMESHARE RESALES, LLC;

and

JOHN P. WENZ, JR., individually and as an
officer of PRO TIMESHARE RESALES OF
FLAGLER BEACH, LLC,

Defendants.

FOURTH INTERIM REPORT OF RECEIVER BRIAN A. MCDOWELL

(covering the period from February 25, 2017 through March 31, 2017)

Brian A. McDowell, as Permanent Receiver (“Receiver”) of J. William Enterprises, LLC (“JWE”) and Pro Timeshare Resales of Flagler Beach, LLC (“Pro Timeshare Flagler”) (JWE and Pro Timeshare Flagler are collectively referred to as the “Receivership Defendants”), and pursuant to this Court’s Order dated January 4, 2017 (Doc. No. 61), by

and through his undersigned counsel, files this Fourth Interim Report of Receiver (“Fourth Report”).

I. ACCOUNTS, RECEIPTS, AND DISBURSEMENTS.

The Receiver’s total receipts and disbursements as of March 31, 2017, are as follows:

Receipts:	\$ 2,311,892.14
Disbursements:	\$ 214,545.28
Balance:	\$ 2,097,346.86

An itemization of receipts and disbursements is attached as **Composite Exhibit A**¹.

II. RECEIVER’S ACTIVITIES

a. Notification of Customers of the Receivership Defendants of the Receivership

The Receiver has modified the Receivership Defendants’ former website and voicemail system, as well as the JWE Facebook page, to notify consumers of the Receiver’s e-mail address (ProTimeshareResalesReceiver@hklaw.com). Through the e-mail address, former customers of the Receivership Defendants can contact the Receiver regarding the status of the receivership. Each former customer receives an automatic response to their e-mail giving a current summary of the FTC’s action against the Receivership Defendants and the receivership, as well as a link to the Receivership Defendants’ former website. The Receiver is logging the information of each customer for future use in the claims process, and will provide them with material updates regarding the litigation as they occur.

¹ Seaside Account Number xxxxxx0309 related to JWE and Kinmont, and Seaside Account Number xxxxxx7799 related to Flagler and Wenz (collectively, the “Receivership Accounts”).

The Receiver continues to maintain the Receivership Defendant's former website and voicemail system in order to inform former customers of the appointment of the Receiver. The Receiver will keep the website and voicemail services active for a reasonable period of time to notify customers, and will then cancel them in order to avoid any unnecessary expenses to the receivership estate.

The Receiver has uploaded to the Receivership Defendants' former website links to various documents related to the litigation, including the Complaint (Doc. No. 2), the Temporary Restraining Order (Doc. No. 11), the Stipulated Preliminary Injunction (Doc. No. 55), and the Receiver's First, Second, and Third Interim Reports (Doc Nos. 45, 74, & 88). The Receiver will continue to upload relevant documents as they become available. A copy of the Receivership Defendants' former website landing page is attached as **Exhibit "B."**

b. Preservation and Recovery of Assets of the Estate

The Receiver is continuing to preserve the real property and physical assets of the Receivership Defendants. The Receiver intends to maintain the Receivership Defendants' former office properties through the pendency of the Receivership, and continues to store the office equipment and other business related assets at those office properties at no charge to the estate.

The Receiver is also still in the process of obtaining and reviewing the financial records of the Receivership Defendants for the potential recovery of additional assets. If, upon review of all of the information available, the Receiver discovers any transfers that may be susceptible to avoidance actions, the Receiver will consider whether the pursuit of

such actions would provide a material benefit to the Receivership Estate in light of the cost to the estate to seek avoidance of the transfers.

Dated this day 31st day of March, 2017.

Respectfully submitted,

/s/ Robert W. Davis, Jr.
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Robert W. Davis, Jr., Esq.
Florida Bar No. 84953
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Suite 2600
Orlando, FL 32801
Tel.: (407) 425-8500
Fax: (407) 244-5288
Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of March, 2017, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF System, which will send electronic filing to all counsel of record.

/s/ Robert W. Davis, Jr.
Robert W. Davis, Jr., Esq.
Florida Bar No. 84953
robert.davis@hklaw.com

JWE Account History				
DATE RECEIVED	Description	DEPOSITS	WITHDRAWALS	BALANCE
1/4/2017	Deposit (cash and coins found at DeLand location)	\$2,713.50		\$2,713.50
1/6/2017	Deposit (transfer from Pro Timeshares of Flagler Beach account in order to make J. William Enterprises payroll payment as quickly as possible)	\$23,007.30		\$25,720.80
1/6/2017	Wire transfer to Paychex (employee payroll)		\$25,695.80	\$25.00
1/6/2017	Wire transfer fee		\$25.00	\$0.00
1/11/2017	Deposit (from Wells Fargo account)	\$379,794.01		\$379,794.01
1/11/2017	Wire transfer fee		\$10.00	\$379,784.01
1/11/2017	Deposit (from Wells Fargo account)	\$507,874.56		\$887,658.57
1/11/2017	Wire transfer fee		\$10.00	\$887,648.57
1/12/2017	Deposit (from Wells Fargo account)	\$259,690.08		\$1,147,338.65
1/12/2017	Wire transfer fee		\$10.00	\$1,147,328.65
1/19/2017	Wire transfer to Paychex		\$551.00	\$1,146,777.65
1/19/2017	Wire transfer fee		\$25.00	\$1,146,752.65
1/19/2017	Check to John P. Wenz, Jr.		\$5,250.00	\$1,141,502.65
1/20/2017	Wire transfer to Paychex		\$2,038.30	\$1,139,464.35
1/20/2017	Wire transfer fee		\$25.00	\$1,139,439.35
1/20/2017	Check to Fisher Rushmer for Attorneys' Fees		\$50,000.00	\$1,089,439.35
1/24/2017	Payment to Duke Energy		\$430.53	\$1,089,008.82
1/25/2017	Check to former employee for reimbursement		\$200.00	\$1,088,808.82
1/25/2017	Wire transfer to Paychex		\$888.61	\$1,087,920.21
1/25/2017	Wire transfer fee		\$25.00	\$1,087,895.21
1/25/2017	Check order		\$25.72	\$1,087,869.49
1/25/2017	Payment to Bright House Networks		\$304.26	\$1,087,565.23
1/27/2017	Payment to Florida Power and Light (for Pro Timeshares Flagler)		\$77.36	\$1,087,487.87
1/27/2017	Payment to Bright House Networks (for Pro Timeshares Flagler)		\$154.65	\$1,087,333.22
2/1/2017	IRS Form 941 Payroll Taxes		\$277.30	\$1,087,055.92
2/2/2017	Deposit (\$1.67 from Wells Fargo Account; \$283.95 in refunds from FLSDU regarding employee income withholding - funds to be remitted to the appropriate party at a later date)	\$285.62		\$1,087,341.54
2/2/2017	Deposit (from TD Ameritrade account)	\$12,272.08		\$1,099,613.62
2/2/2017	Wire transfer fee		\$10.00	\$1,099,603.62
2/2/2017	Deposit (from TD Ameritrade account)	\$605,700.37		\$1,705,303.99
2/2/2017	Wire transfer fee		\$10.00	\$1,705,293.99
2/2/2017	Withdrawal (transfer to Pro Timeshares Flagler account to reconcile for the \$23,007.30 deposit on 1/6/2017 less Pro Timeshares Flagler related debits made from J. William Enterprises account)		\$17,525.29	\$1,687,768.70
2/6/2017	Check to Florida Power and Light (for Pro Timeshares Flagler)		\$169.21	\$1,687,599.49
2/8/2017	Deposit (from CardWorks merchant reserve account)	\$300,000.00		\$1,987,599.49
2/8/2017	Wire transfer fee		\$10.00	\$1,987,589.49
2/10/2017	Check to Jess Kinmont		\$4,500.00	\$1,983,089.49
2/15/2017	Deposit (from Electronic Merchant Systems merchant reserve account)	\$208,866.22		\$2,191,955.71
2/15/2017	Wire transfer fee		\$10.00	\$2,191,945.71
2/21/2017	Deposit (transfer from Pro Timeshares Flagler account for Pro Timeshares Flagler payment to Florida Power & Light payment made from J. William Enterprises account)	\$169.21		\$2,192,114.92
2/21/2017	Deposit (reimbursement from Paychex for duplicate payment to employee less customary fees)	\$828.61		\$2,192,943.53
2/21/2017	Check to Holland & Knight LLP (payment of Receiver's Fees)		\$37,208.05	\$2,155,735.48
2/21/2017	Check to Holland & Knight LLP (payment of Attorneys' Fees)		\$73,921.56	\$2,081,813.92
2/21/2017	Check to Bright House Networks (now Spectrum Business)		\$304.26	\$2,081,509.66
3/2/2017	Check to Santa Cruz Property Owners Association (quarterly dues)		\$751.99	\$2,080,757.67
3/2/2017	Check to Santa Cruz Capital Contribution		\$58.24	\$2,080,699.43
3/21/2017	Payment to Duke Energy		\$73.76	\$2,080,625.67
3/29/2017	Check to Spectrum Business (formerly Bright House Networks)		\$304.26	\$2,080,321.41
#49379756v3				

Pro Timeshares Flagler Account History				
DATE RECEIVED	Description	DEPOSITS	WITHDRAWALS	BALANCE
1/6/2017	Deposit from Pro Timeshares of Flagler Beach, LLC SunTrust Account	\$34,695.70		\$34,695.70
1/6/2017	Wire tranfer to Paychex (employee payroll)		\$11,404.00	\$23,291.70
1/6/2017	Wire transfer fee		\$25.00	\$23,266.70
1/6/2017	Withdrawal (transfer to J. William Enterprises account in order to make J. William Enterprises payroll payment as quickly as possible)		\$23,007.30	\$259.40
1/9/2017	Account fee		\$35.00	\$224.40
1/25/2017	Check order		\$25.72	\$198.68
2/2/2017	Deposit (transfer from J. William Enterprises account to reconcile for the \$23,007.30 withdrawal on 1/6/2017 less Pro Timeshares Flagler related debits made from J. William Enterprises account)	\$17,525.29		\$17,723.97
2/21/2017	Withdrawal (transfer to J. William Enterprises account for Pro Timeshares Flagler payment to Florida Power & Light payment made from J. William Enterprises account)		\$169.21	\$17,554.76
2/21/2017	Check to Florida Power and Light		\$54.24	\$17,500.52
2/22/2017	Check to City of Bunnell, Florida - Utilities		\$141.02	\$17,359.50
2/23/2017	Check to ADT Security Services		\$46.74	\$17,312.76
3/16/2017	Check to City of Bunnell, Florida - Utilities		\$136.11	\$17,176.65
3/16/2017	Check to Florida Power and Light		\$56.22	\$17,120.43
3/20/2017	Check to ADT Security Services (2 months of service)		\$94.98	\$17,025.45
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Holland & Knight



Receiver's Letter To Customers And Creditors Of J. William Enterprises, LLC And Pro Timeshare Resales

On December 13, 2016, United States District Judge Gregory A. Presnell in the Middle District of Florida appointed me, Brian McDowell, as Receiver over the following entities:

- **J. WILLIAM ENTERPRISES, LLC, a Florida limited liability company, also d/b/a PROTIMESHARE RESALES**
- **PRO TIMESHARE RESALES OF FLAGLER BEACH, LLC, Florida limited liability company**



The Federal Trade Commission alleges that these entities ("Receivership Defendants") along with their principals, through a common enterprise, engaged in a plan, program, or campaign to deceptively advertise, market, promote, offer for sale, or sell timeshare resale or rental services. The FTC's charges are summarized in a [December 22, 2016 Litigation Release](#).

As Receiver, I am authorized and directed by the United States District Court, among other things, to i) assume custody and control of all of the Receivership Defendants' businesses, assets and properties, ii) determine, adjust and protect the interests of consumers and customers who have transacted business with the Receivership Defendants, iii) evaluate the activities of the Receivership Defendants and determine whether to conduct any further business or cease operation of the business, and iv) preserve the value of the Receivership Defendants' assets and properties in order to prevent any irreparable loss or injury to the consumers or creditors of the Receivership Defendants. In conjunction with my appointment as Receiver, the Court also imposed a freeze upon all of the assets and properties of the Receivership Defendants and a stay of any litigation against the Receivership Defendants.

The website upon which this letter appears has been set up to help provide you with information about the actions that led to my appointment, the status of the case, and the steps you can take to help process any claims that you may have against the Receivership Defendants. Please note that you can double click on any underlined blue entry to hyperlink to the referenced document. I will also endeavor to update this letter when developments warrant it.

If you wish to leave an e-mail message for me, please click on the following link,

Exhibit "B"

Background Regarding Appointment of a Receiver

On December 12, 2016, the Federal Trade Commission (“FTC”) filed its [Complaint for Injunctive Relief and Other Equitable Relief \(Doc. No. 2\)](#) in the United States District Court for the Middle District of Florida, Tampa Division, against defendants J. Williams Enterprises, LLC, d/b/a Pro Timeshares Resales (“JWE”), Pro Timeshare Resales of Flagler Beach, LLC (“Pro Timeshare Flagler”) (JWE and Flagler are collectively referred to as the “Receivership Defendants”), Jess Kinmont (“Kinmont”), and John P. Wenz, Jr. (“Wenz”) (Receivership Defendants, Kinmont, and Wenz are collectively referred to as “Defendants”). In its Complaint, the FTC alleges that the Defendants, through a common enterprise, engaged in a plan, program, or campaign to deceptively advertise, market, promote, offer for sale, or sell timeshare resale or rental services.

On December 13, 2016, the Court entered its [Ex Parte Temporary Restraining Order \(“TRO”\)\(Doc. No. 11\)](#) enjoining the Defendants from misrepresenting, or assisting others in misrepresenting, directly or indirectly, expressly or by implication, that Defendants have a buyer or renter for the consumer’s timeshare property, and appointing me as temporary receiver over the Receivership Defendants. On December 21, 2016, and continuing on December 22, 2016, the Court conducted a show cause hearing in connection with the FTC’s Motion for Preliminary Injunction (Doc. No. 3). At the hearing, the [Receiver testified](#) about his actions taken pursuant to the TRO, the business of the Receivership Defendants, and his conclusion that the business could not operate lawfully and profitably. During the course of that hearing, the FTC and Defendants announced they had reached an agreement that the Defendants would stipulate to the entry of a preliminary injunction. As a result, on December 27, 2016, the Court entered the [Stipulated Preliminary Injunction Order with Asset Freeze, Appointment of a Permanent Receiver, and Other Equitable Relief \(the “Stipulated Preliminary Injunction”\)](#) (Doc. No. 55). Pursuant to the Stipulated Injunction, I became the Permanent Receiver over the Receivership Defendants.

Status of the Receivership defendants

As Receiver, I am an independent agent of the Court charged with, among other things, conserving and managing all assets of the Receivership Defendants and performing all acts necessary or advisable to preserve the value of those assets in order to prevent any irreparable loss or injury to consumers or creditors of the Receivership Defendants. Immediately upon my appointment, I took a number of steps to discharge this obligation:

- Ensuring that the TRO and Preliminary Injunction had been served upon all banks and other financial institutions believed to have receivership funds.
- Securing the physical premises and personal properties of the Receivership Defendants.
- Securing all books, records, and electronic data of the Receivership Defendants.
- Interviewing the Individual Defendants to determine the full extent of the businesses of the Receivership Defendants and to identify the nature, value and location of any of the assets of the Receivership Defendants.

I have ceased all telemarketing and advertising business activities of the receivership defendants. I have also instructed the company responsible for debiting consumer bank accounts for the so-called enrollment fees for the Receivership Defendants to stop making such debits. Lastly, I am examining all transactions between the Receivership Defendants and the Individual Defendants and certain third parties to determine whether any such transactions were fraudulent, unsupported by adequate consideration, or otherwise unjustly enriched the Individual Defendants or third parties to the detriment of the Receivership Defendants. In the event I determine that the Receivership Defendants have viable claims against the Individual Defendants or third parties for the return of any misappropriated funds, properties or other assets, I intend to prosecute these claims on behalf of the Receivership Defendants and seek the recoveries of these ill-gotten gains.

Receivership Reports

Pursuant to the Court's Orders, I have filed monthly reports with the Court. The monthly reports detail the actions taken by my counsel and me to carry out my mandate. For your review, I have provided links to the reports below:

- [First Interim Report](#)
- [Second Report](#)
- [Third Report](#)

The Claims Process

Ultimately, I anticipate that the Court will authorize me or FTC to develop and implement a process by which consumers, former employees, vendors, and any other persons who may have a claim for losses or damages against the Receivership Defendants may seek the distribution of funds from the Receivership Defendants in satisfaction of these claims. Please be aware that in any such claims process you will be required to document and otherwise support your claim for distribution.

Typically, I will review all claims and make a recommendation to the Court whether I believe the claim is valid and should be approved. I will also usually recommend the amount of the particular claim that should be approved. Creditors will be provided with adequate notice of my recommendation and an opportunity to file an objection to any adverse recommendation with the Court. The Court may, if it deems it appropriate, conduct a hearing on the various claims filed against the Receivership Defendants. At the end of the process, available funds of the Receivership Defendants will be distributed to those persons whose claims were approved by the Court.

Please continue to monitor this website for significant developments in this matter. As indicated at the outset, I will endeavor to update this site so that you might track and understand the action and proceedings that may affect your interests.

Contact Information For Receiver:

Brian McDowell, Receiver

Holland & Knight LLP

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