



ankura 

In re Sanctuary Belize Litigation

18-cv-3309 (D. Md.) (PJM)

**Successor Receiver Redress Plan
Progress Report and Status Update for
the Period October 1, 2022 to January
31, 2023**

Submitted: March 9, 2023



TABLE OF CONTENTS

I. Executive Summary	1
II. Redress Plan Preparatory Activities.....	5
III. Redress Plan Implementation and Administration Activities	7
IV. Belize Property Management Oversight Activities.....	12
V. Preparing for Anticipated Marketing and Sales Activities.....	13
VI. Accounting and Financial Statements	14
VII. Ongoing Court Proceedings	17
A. Fourth Circuit Proceedings.....	17
B. Bella Mar/Diaz-Cueto Litigation.....	19
C. Kanantik Recognition Order Application.....	19
VIII. Proposed Recommendations for the Remaining Phases of the Redress Plan.....	19
IX. Conclusion.....	22



I. EXECUTIVE SUMMARY

Marc-Philip Ferzan of Ankura Consulting Group, LLC (the “Receiver”) respectfully submits this report to the United States District Court for the District of Maryland (the “District Court” or “Court”) to provide: (i) a Redress Plan progress update pursuant to the requirements of the Court’s August 18, 2022 Order (the “August 18th Order”) approving the implementation of the initial stages of the Redress Plan; and (ii) an overview of other relevant receivership administration and oversight activities that were undertaken from October 1, 2022 through January 31, 2023 (the “Reporting Period”).¹

Receivership Background

The Court established the receivership estate in this matter in November 2018 – nearly four-and-a-half years ago. The matter has experienced significant delays largely attributable to legal challenges brought by the defendants, which mainly relied on the intervening U.S. Supreme Court decision in AMG Capital Management, LLC v. Federal Trade Commission. Among other things, the defendants’ numerous appeals limited the ability of the Receiver and the Federal Trade Commission (“FTC”) to administer consumer redress and market the substantial land assets making up the Sanctuary Belize and Kanantik development areas to qualified developer(s) for the benefit of lot buyers.

In addition to delaying implementation of a consumer compensation program, the passage of time has required the Receiver to invest significant resources to continue to operate and maintain the development areas in accordance with the mandates of controlling Court orders. Unfortunately,

¹ In light of the Redress Plan progress report being due by March 13, 2023, as directed by the Court in its August 18th Order, the Receiver did not file a fourth quarter 2022 administration and oversight update report, but rather consolidated the reporting herein. It is anticipated that the Receiver’s next report will be submitted to the Court following the end of the second quarter of 2023, consistent with the typical quarterly reporting cycle.



the estate has no material recurring sources of income. As a result, the operations and maintenance responsibilities have been almost entirely funded by the assets previously recovered by the FTC and the Receiver.

In an effort to advance the early stages of the FTC’s proposed Redress Plan (referred to as the “Compensation Plan” with the consumer population) while remaining legal issues were still being litigated, on August 18, 2022, the Court approved certain sections of the Redress Plan to enable the Receiver to collect Claim Applications from lot buyers, determine amounts paid and relevant contract terms, and make eligibility determinations. The Court set a September 12, 2022 effective date for these initial stages of the Redress Plan, which dictated the following timeline of activities for the Receivership Team to engage with lot buyers and reconcile historical lot purchase data as required under the Redress Plan:

Claim Applications distributed:	October 27, 2022
Deadline to submit completed Claim Application:	December 12, 2022
Deadline to resolve Claim Application deficiencies:	January 10, 2023
Eligibility notifications:	February 9, 2023

Pursuant to the August 18th Order, the Receivership Team developed and implemented a turnkey online Claim Application program to facilitate the broadest possible participation of eligible victims within required timelines, and to reconcile relevant financial information and lot ownership interests that will form the bases of consumer choices and relief criteria.² The claims process proved to be a significant undertaking due to a number of factors, including:

² The August 18th Order authorized implementation of the first 150 days of the Plan (as specified in Sections II – III.A). The Order does not permit the Receivership Team to implement other components of the Redress Plan that would enable: (i) issuing payments to eligible consumers; (ii) providing consumers with their lot ownership options; and (iii) selling the Belize development areas to qualified developer(s).



- The significant passage of time since when the fraud scheme was operated and lot sales occurred, approximately between 2005 and 2018;
- Inaccurate and incomplete defendant company business records, which in some cases appeared to be due to a lack of accounting proficiency and, in others, the result of blatant fraud;
- Varying forms of contracting and sales inducements employed by the defendants -- oftentimes without formal documentation -- to continue to fuel the massive fraud scheme built on lies and false promises;
- The intricacies of amended or superseded contractual agreements relevant to underlying Redress Plan determinations; and
- Changes over the years in lot ownership resulting from voluntary transfers, lot trading, and, in some cases, improper “foreclosures” by the defendants.

These factors created practical challenges for many lot buyers to address certain information gaps, validate payment data and contract terms, and complete their Claim Applications. To address these challenges, the Receivership Team developed extensive orientation materials and tailored support resources to assist lot buyers through the process.³ In many cases, the Receivership Team needed to employ forensic analyses to reconstruct historical lot purchases and financial transactions

³ In order to provide necessary guidance for those engaged in the Claim Application process, the Receivership Team coordinated more than 30,000 incoming and outbound email communications with consumers, and in excess of 3,000 phone communications from October 2022 through February 2023.



in order to resolve data points that will inform foundational consumer rights and choices.⁴ Much of this information also will support the Receiver’s anticipated efforts to market the Belize land assets to prospective developers by facilitating their commercial and factual due diligence requirements.

As a result of these coordinated efforts, robust participation was made possible for victims, who were able to successfully submit Claim Applications and obtain lot-specific eligibility determinations. By the February 9, 2023 notification deadline, more than 2,840 eligibility notices were distributed to claimants in connection with over 1,700 applications received -- and 97% of applications were determined to be eligible by the Receivership Team.

Recommendations Concerning Redress Plan Next Steps

Based on institutional knowledge developed by the Receivership Team to date in connection with Belize operations and maintenance activities, Redress Plan administration and other consumer engagement, court proceedings in the United States and Belize, Belize land validation and related foundational activities to prepare for contemplated marketing and sales efforts, and consultation with real estate industry professionals and legal counsel, as well as the FTC, this report also presents for the Court’s consideration recommendations concerning proposed Redress Plan next steps. The Receiver believes the recommendations, which are centered around marketing the various Belize land assets *before* undertaking substantial additional administration activities (and

⁴ With the substantial passage of time, consumers regularly struggled to provide underlying documents to support their Claim Applications when they disagreed with pre-populated information included in their Claim Application(s). In these instances, the Receivership Team conducted additional fact gathering in defendant company records, evaluated sworn affidavits, and/or considered other reasonably accessible information to assist the Receiver in exercising discretion in accordance with the “other sufficient proof” standard articulated in Section II.M of the Redress Plan to make determinations.



incurring related costs), can generate significant process efficiencies, achieve substantial cost savings, and better inform consumer choices.⁵

II. REDRESS PLAN PREPARATORY ACTIVITIES

Pursuant to the District Court’s August 18, 2022 Order, the Receivership Team, in coordination with the FTC, continued its efforts to prepare for Redress Plan implementation by, among other things, ensuring that consumers were provided the necessary orientation, guidance resources, and live staffing support to enable them to timely complete and submit Claim Applications by the December 12, 2022 deadline, as well as to address any flagged deficiencies or other information gaps by the January 10, 2023 deadline. Related administration activities over the Reporting Period included:

- *Development and Hosting of Live Information Sessions.* Following the distribution of the September 16, 2022 Initial Notice to consumers providing a detailed, “plain language” overview of the Court-approved Redress Plan components and Claim Application process, the Receivership Team hosted two live information sessions on October 11, 2022 at 2:00 p.m. ET and October 13, 2022 at 7:00 p.m. ET to offer more detailed Claim Application guidance. Details concerning the information sessions -- including instructions on how to participate by Zoom and/or telephone -- were made available through the Initial Notice and the Receiver’s website, among other channels. The information sessions covered a variety of pertinent topics, including: (i) the Redress Plan timeline and Claim Application deadlines; (ii) the process for completing and submitting a Claim Application; and (iii) available customer support resources. Immediately following each of the affirmative presentations, the Receivership Team held question-and-answer sessions before concluding the information sessions.⁶
- *Launching of Claim Application Portal.* The Receivership Team continued to develop and refine the online Claim Application Portal to satisfy Redress Plan data gathering requirements and facilitate the timely filing of Claim Applications. The user-friendly Portal allowed consumers to, among other things, submit answers to dynamic Claim Application

⁵ Importantly, the recommendations also factor in the substantial passage of time and resources expended since the receivership was established and the Redress Plan was envisioned, as well as significant changes in market conditions (e.g., inflation, rising interest rates, supply chain disruptions, and other global and local real estate marketplace factors) that influence the underlying risk considerations reflected in Disclosure Nos. 1 – 4 contained in Section I of the Redress Plan.

⁶ Complete information session recordings, along with the session presentation materials in the form of PowerPoint slides, were posted on the receivership website for ongoing reference by consumers.



questions (depending on threshold responses), attach relevant documentation (where necessary), validate required Claim Application declarations for single- and joint-owner submissions, monitor Claim Application status, and address any Claim Application gaps or deficiencies identified by the Receivership Team.

- *Creation and Distribution of Online Claim Applications.* The Receivership Team worked collaboratively with the FTC in accordance with Redress Plan requirements to design a Claim Application that would enable consumers to confirm and/or provide the information required by the terms of the Redress Plan. To streamline the Claim Application process, account for the passage of time, and reduce administrative burdens on consumers, the Receivership Team exported data from its previously developed consumer database (using categorical Redress Plan-required inputs from available defendant company records and other sources) to pre-populate Claim Applications with underlying information related to, among other things, consumer identification and contact details, corresponding lot interests, relevant amounts paid, and pertinent contractual terms. The pre-populated Claim Applications were made available to consumers on October 27, 2022, and new applications (in instances where consumers substantiated appropriate requests for additional time) were submitted as late as February 22, 2023.
- *Implementation of Claim Application Review Protocols.* The Receivership Team further refined procedures and workflows to facilitate the timely processing of Claim Applications associated with more than 2,840 affiliated consumers pursuant to the detailed Redress Plan eligibility requirements and transactional guidelines. The procedures and workflows accounted for relatively standard claims scenarios -- which did not require the review of additional information provided by consumers -- as well as a broad range of more complex claims scenarios, which required substantial additional interactions with consumers and engagement by the Receivership Team to understand various changes in circumstances and complex fact patterns pertaining to up to 16 unique data points contained in the Claim Applications. Leveraging its turnkey technology platform, claimant data-tracking capabilities, and user-friendly process steps, the Receivership Team was able to undertake accelerated reviews of submitted applications to determine whether they were complete and, to the extent they were not (or otherwise were deficient), provide timely notice to consumers of the additional information or supporting documentation that was required. Ultimately, the Receivership Team identified more than 3,100 deficiencies -- across nearly 1,100 Claims Applications (approximately 64% of those submitted) -- that often required multiple engagements with consumers to resolve.
- *Additional Consumer Identification and Contact Information Validation.* The Receivership Team engaged in additional efforts to include potentially eligible consumers and validate corresponding contact information, including through direct outreach, public database searches and skip tracing, to enable broad distribution of Claim Applications to qualifying victims.



III. REDRESS PLAN IMPLEMENTATION AND ADMINISTRATION ACTIVITIES

Substantial progress was accomplished over the Reporting Period in connection with the solicitation, collection and review of Claim Applications, as well as the rendering of eligibility determinations. In administering Sections II through III.A of the Redress Plan, the Receivership Team designed a single application process that could be utilized to inform the future components of the Redress Plan related to consumer relief and the marketing and sale of Belize land assets. While most consumers were able to complete pre-populated Claim Applications with relative ease, it was necessary for the Receivership Team to work closely with others to overcome various challenges they experienced in navigating the required process steps. For example, many consumers needed assistance in understanding application requirements derived from the Redress Plan, as well as how to use the technology platform to complete their online Claim Applications.⁷ In addition, a number of them faced difficulty obtaining and providing historical documentation associated with underlying land transaction(s), corresponding payments, and related contractual terms (relative to a variety of forms of agreements and inducements used during different sales campaigns employed by the defendants over the course of the scheme).⁸ Factoring in these and other defendant tactics, as well as the passage of several years since the underlying lot sales

⁷ These struggles appeared to be related to, at least in part, the limited computer capabilities of a substantial portion of individuals within the consumer demographic -- who did not have much experience using an online system to do things like log in with a unique ID, submit information and respond to follow-up requests, and upload documentation.

⁸ The FTC's complaint alleged the following six "core" false claims with respect to Sanctuary Belize: (i) the project carried no debt and was, therefore, a safe investment; (ii) every dollar from lot sales would be reinvested in the project; (iii) Sanctuary Belize would have a variety of luxury amenities comparable to a small American city; (iv) the project would be complete within a specific time frame (usually two to five years); (v) lots would quickly appreciate in value; and (vi) there was a robust market for the resale of Sanctuary Belize lots. Following trial, the Court determined that the FTC met its burden of proof with respect to all but the fifth "core" false claim and entered corresponding judgments against the defendants. A number of other contracting inducements and promises were also made by sales representatives to generate lot sales and placate those lot purchasers who raised concerns and otherwise challenged the defendants.



occurred,⁹ substantial additional support by the Receivership Team was required to sort through various factual scenarios. Consumers were guided through the Claim Application processes on an as-needed basis to account for threshold ownership interests, payment details, and purchase agreement terms (including those reflected in amended and/or superseding agreements).

Furthermore, the Receivership Team processed a significant number of Claim Applications involving more complicated scenarios, often requiring forensic information gathering from various sources, including, for example, in cases involving:

- Reconciliation of asserted ownership changes for lots with multiple-owners;¹⁰
- Complex ownership structures (including those involving separate legal business entities, retirement accounts, and trusts);
- Lot transfers (in whole or in part) involving the defendants, as well as subsequent sales to third party purchasers;
- Lot acquisitions based upon unique contractual terms (including negotiated buybacks, lot reservation agreements, and loan conversion options);
- Divorces of previously married co-owners;
- Deaths of named owners and co-owners (and associated probate and estate filings);
- Lot interests acquired through intermediate investments or through the exchange of goods or services (rather than the use of currency);
- Land asset encumbrances;
- Asserted oral modifications to written contracts (including representations that discounts were subsequently offered by the defendants); and
- Other instances in which consumers disagreed with, but had difficulty substantiating challenges to, pre-populated Claim Application information, including lot interests, as well as amounts paid and contractual terms.

⁹ As stated above, the defendants' alleged fraudulent practices in connection with the sale of Sanctuary Belize lots began as early as 2005 and continued through 2018.

¹⁰ More than 1,000 submitted Claim Applications (nearly 59%) concerned lots with multiple owners. These submissions not only necessitated coordination between those sharing ownership interests, but also frequently required the Receivership Team to provide assistance to joint-owners in completing the steps to file corresponding Claim Applications.



Moreover, missing, inaccurate, or incomplete defendant company land, banking, payment, and transactional records also created reconciliation challenges for the Receivership Team.¹¹

In total, the Receivership Team received and reviewed approximately 10,000 additional documents provided by consumers to support their claims, and undertook the necessary investigative steps to validate underlying factual information pertaining to the associated lot transactions. Among other things, these fact-finding efforts involved targeted searches across more than 50 gigabytes of electronic data of defendant company records, which included various transaction documents, subdivision maps, lot records and other materials, as well as email communications with consumers. As part of the process, ongoing dialogues between the Receivership Team and consumers were often necessary to resolve Redress Plan requirements.

To facilitate requested claimant support and promote broad participation in the Claim Application process, the Receivership Team, among other things: (i) coordinated outbound call campaigns to contact those who had not timely registered their Unique ID and set up a Claim Application Portal account, as well as to remind relevant consumers of the requirement to cure any identified gaps or deficiencies by the January 10, 2023 deadline; (ii) directed multiple email reminders to consumers regarding the December 12, 2022 deadline to submit a complete Claim Application, as well as the January 10, 2023 deadline to cure any identified gaps or deficiencies; (iii) provided timely guidance to consumers to identify Claim Application deficiencies and required supplemental information or documentation to meet Redress Plan application requirements and

¹¹ As described in prior reports, available defendant company records created when the fraud scheme was ongoing were maintained in disparate electronic and physical files, and were memorialized in various contractual and transactional formats.



timetables;¹² and (iv) considered and approved consumer requests for additional time to complete Claim Applications based on appropriate circumstances.

A range of layered claimant support resources were designed and implemented by the Receivership Team. Written informational resources, posted on the Receiver’s website, included guidance in the form of Frequently Asked Questions, a Claim Application Portal User Guide, and tailored instructions regarding various non-standard claims to enable consumers to follow the instructions and proceed on their own. However, in instances where more support was necessary, communications channels were established so that consumers could obtain direct assistance from personnel knowledgeable of the details of Redress Plan definitions and guidelines. In these cases over the Reporting Period, consumers were able to contact the Receivership Team by email -- through the Receiver’s dedicated email address and “Contact Us” page -- as well as by phone through the Claim Application Helpline, which was staffed by live customer support agents (Monday through Friday from 8:00 a.m. ET to 6:00 p.m. ET, excluding major holidays).¹³ The Receivership Team actively monitored the volume of consumer communications and anticipated spikes in activity (often preceding important deadlines), enabling it to adjust staffing on an ongoing basis to ensure that consumer inquiries were timely addressed.

From October 2022 through February 2023, the Receivership Team coordinated more than 30,000 incoming and outbound email communications and in excess of 3,000 phone communications. Common consumer inquiries focused on the Claim Application process

¹² As previously referenced, 1,092 of the 1,710 filed Claim Applications (approximately 64%) contained at least one deficiency that needed to be addressed.

¹³ The Receivership Team also established an interactive voice response system, which allowed callers to access relevant pre-recorded information by making selections from tailored menus, prior to speaking to live agents.



(including how to complete a Claim Application and the deadlines for doing so, the steps to access the Claim Application Portal, and the sufficiency of supporting information and/or documentation to substantiate claims). The Receivership Team also received regular inquiries regarding specific Redress Plan terms and requirements, as well as the status of Court proceedings.¹⁴

As referenced above, at the conclusion of the Claim Application program, the Receivership Team had received 1,710 Claim Applications associated with corresponding lots, which were cumulatively affiliated with 2,844 individuals and entities. Of the 1,710 Claim Applications submitted, a total of 1,664 (97.3%) were deemed eligible and 46 (2.7%) were determined to be ineligible. Among the reasons that applications were determined to be ineligible included instances where individuals: (i) did not submit a complete Claim Application as required by the terms of the Redress Plan; (ii) had served as employees, contractors, or vendors of the defendants and did not purchase their lot through the retail sales process, contrary to controlling Redress Plan parameters; (iii) did not make an actual payment toward the acquisition of their lot and, therefore, suffered no loss under the Redress Plan; (iv) sold their lot to a third party purchaser and did not suffer a loss

¹⁴ In addition to addressing these consumer inquiries, the Receivership Team continued to convene monthly Consumer Committee meetings, during which it delivered pertinent updates regarding other material receivership activities. Consistent with past practices, meeting minutes were posted to the Receiver's website and circulated to consumers to facilitate awareness and promote engagement.



under the Redress Plan; or (v) made representations that the Court found to be unlawful pursuant to Redress Plan mandates.¹⁵

As required by the Court’s August 18, 2022 Order and Redress Plan mandates, the Receivership Team distributed corresponding eligibility determinations to consumers on February 9, 2023. As of the date of this report, no formal Dispute Notices have been filed by consumers challenging the eligibility determinations.

IV. BELIZE PROPERTY MANAGEMENT OVERSIGHT ACTIVITIES

Over the Reporting Period, the Receivership Team continued to closely coordinate with operations and maintenance staff in Belize to maintain receivership-owned real estate, preserve the value of receivership assets, and prevent the material degradation of environmental conditions in accordance with the requirements of the District Court’s controlling orders. In carrying out these responsibilities, the Receivership Team remained focused on administering cost-reasonable approaches to addressing property maintenance needs, particularly for the small population of consumers living in the Sanctuary Belize development area.

Following a series of significant weather events in the third quarter of 2022, the Receivership Team and Belize staff were able to advance a number of priority initiatives during the Reporting Period, including: (i) identifying and prioritizing targeted road repairs; (ii) mitigating

¹⁵ The Redress Plan required the Receivership Team to determine eligibility based upon a number of criteria including, but not limited to, whether a person submitting a Claim Application qualified as a “Consumer” by purchasing an “Eligible Lot” as part of the Sanctuary Belize and Kanantik “retail sales process.” Under the Redress Plan, a purchaser of a Sanctuary Belize or Kanantik lot could be deemed ineligible to participate for a variety of reasons, including as a result of: (i) having received a full refund; (ii) having earned compensation from the defendants for help in selling lots; and/or (iii) having made a representation the Court found to be unlawful (and knowing that the misrepresentation was false or misleading). Accordingly, the Receivership Team’s Claim Application review process necessarily involved analysis of whether an otherwise eligible consumer was disqualified from participating due to exclusionary language in the Redress Plan.



erosion near the Sanctuary Belize Beach Club with the installation of a breakwater barrier (to blunt current impacts) and sand replenishment in more vulnerable areas; (iii) replacing certain outdated electrical system infrastructure in the base yard, network room and Security Office to ensure the safety of personnel and safeguard essential electronic equipment (including network and internet connectivity devices); and (iv) conducting repairs to the diesel fuel line that leads to the Sanctuary Belize Marina.

While undertaking these priority initiatives, the Receivership Team was able to largely leverage in-house staff, equipment, and materials to drive cost efficiencies. And, notably, the reduction in staffing implemented by the Receivership Team in 2022 has proven to be sustainable, without compromising necessary operations and maintenance functions (geared in large part towards resident safety and security). Staffing levels were reduced by a total of 32 employees, as compared with personnel resources at the latter part of 2021¹⁶ -- an approximately 25% decrease -- which has translated into cost savings of more than \$220,000 on an annualized basis.

V. PREPARING FOR ANTICIPATED MARKETING AND SALES ACTIVITIES

During the Reporting Period, the Receivership Team took additional steps to contemplate marketing and sales activities relative to receivership land assets. As a general matter, the Receiver has envisioned transferring these assets as part of a prospective sale to a successor developer, as facilitated by recognition orders the Receiver has obtained from the Belize Supreme Court (further described in Section VII below), and following the resolution of certain remaining issues before the District Court.

¹⁶ In the first quarter of 2022, the Receivership Team instituted an initial round of staffing reductions involving 12 full-time employees at Sanctuary Belize and two full-time employees at Kanantik. Following site visits in the second quarter of 2022, the Receivership Team took the additional step of consolidating management of the properties under the Sanctuary Belize organizational team, resulting in the reduction of all 16 remaining Kanantik staff members. Staffing was subsequently reduced by two additional employees.



To enhance the likelihood of a successful transfer of the Belize land assets to qualified developer(s), coordinated efforts continued to: (i) validate Belize government land records and chain of title to facilitate potential due diligence requirements and contracting processes; (ii) gather and organize pertinent documents (including maps, surveys, title documents, land use documents, and other historical records) for inclusion in a data room to facilitate review and consideration by prospective developers; and (iii) evaluate marketing strategies aimed at maximizing interest in the real estate assets from credible firms or consortiums capable of meeting the requirements of the Redress Plan, while at the same time factoring in certain financial headwinds that are currently affecting global markets. And, as noted, the information obtained by the Receivership Team through the Claim Application process, including updated lot ownership information relative to lots in designated subdivisions, will not only be foundational to the due diligence process, but will also help inform overall strategy relative to engagement with potential successor developers.

VI. ACCOUNTING AND FINANCIAL STATEMENTS

The financial data reflected in the statements below show the current net assets in the receivership estate, as well as net recoveries, after expenses, through January 31, 2023. The operating expenses of Sanctuary Belize and Kanantik¹⁷ are generally recorded on a cash basis as

¹⁷ As provided in the Final Order Concerning Kanantik (Doc. 1193), the District Court ruled that the entities that comprise Kanantik -- Mango Springs Development Ltd., G&R Development Company of Belize, Ltd., Palmaya Development, Ltd., Kanantik International Limited, and Mango Springs Development, LLC (the “Kanantik Entities”) -- are receivership assets. Accordingly, the Receiver has conserved, managed and preserved the Kanantik development area for the benefit of consumers. From the time that the Kanantik Entities became receivership assets, no meaningful liquid assets or income streams have been identified. Consequently, operations and maintenance costs incurred in connection with the historical efforts of a limited staff have been satisfied using receivership estate funds recovered from the FTC litigation and receivership estate asset monetization activities. As reflected in the charts in this Section of the Report, the Receivership Team is accounting for Kanantik and Sanctuary Belize expenditures separately, so that reimbursement for Kanantik expenses can be readily effectuated upon sale of any of the Kanantik assets, including Kanantik real estate to a successor developer.



payments are approved and issued. The statements do not include data related to the value of certain receivership assets, including land, improvements, equipment, and other assets located in Belize. The Receivership Team will perform additional evaluations of the development area properties in advance of initiating a process to formally solicit proposals from interested developers.

Over the Reporting Period, the Receivership Team continued to contain receivership estate costs by, among other things, scrutinizing all requests for operations-related expenditures submitted by operations staff, carefully sequencing required maintenance work, and maintaining a reduced level of staffing. Below are the Statements of Net Assets and Statement of Net Recoveries for the Reporting Period.

**In re Sanctuary Belize Receivership
Statement of Net Assets**

	As of January 31, 2023
Assets:	
Cash	\$ 26,401,616
Total assets	26,401,616
Liabilities:	
Ankura professional fees and expenses	1,458,816
REA professional fees and expenses	1,243
Barnes & Thornburg professional fees	127,751
Arnold & Porter Kaye Scholer professional fees	25,921
Other accounts payable	70,958
Total liabilities	1,684,689
Net assets available	\$ 24,716,927



**In re Sanctuary Belize Receivership
Statement of Net Recoveries**

	For the Period October 1, 2022 to January 31, 2023	From Inception to January 31, 2023
Recoveries:		
Atlantic International Bank settlement*	\$ -	\$ 23,000,000
Previously reported recoveries	-	20,786,502
Other collections	13,014	704,899
Total recoveries	\$ 13,014	\$ 44,491,401
Expenses:		
Sanctuary Belize operating expenses		
Payroll	\$ 310,112	\$ 3,921,064
Equipment, maintenance, and supplies	178,174	2,021,900
Employment taxes	45,472	644,269
Property taxes and other government payments	4,442	237,718
General, administrative, and other expenses	29,965	881,513
Legal fees and costs	81,282	461,658
Total Sanctuary Belize operating expenses	649,448	8,168,121
Kanantik operating expenses		
Payroll	17,919	307,628
Equipment, maintenance, and supplies	904	46,279
Employment taxes	-	44,282
Property taxes and other government payments	-	58,240
General, administrative, and other expenses	1,813	121,494
Legal fees and costs	-	34,866
Total Kanantik operating expenses	20,637	612,789
Real estate property expenses	-	1,809,171
Corporate entity expenses	1,141	80,859
Other expenses	53,040	103,779
Receiver fees and expenses		
Ankura fees and expenses	1,458,816	3,764,493
REA fees and expenses	1,243	2,847,275
Barnes & Thornburg fees and expenses	127,751	2,277,456
Arnold & Porter Kaye Scholer fees and expenses	25,921	110,530
Total receiver fees and expenses	1,613,731	8,999,754
Total expenses	2,337,996	19,774,474
Net recoveries/ (expenses)	\$ (2,324,982)	\$ 24,716,927

*Atlantic International Bank Limited (“AIBL”) funds are segregated from other Receivership estate assets. By way of background, the FTC recovered \$23 million from AIBL pursuant to a stipulated judgment, and sought the assistance of the original Receiver to oversee those funds until they could be applied to support related equitable relief initiatives, including consumer redress. The monies were deposited into a dedicated bank account controlled by the original Receiver, and now the successor Receiver. Unless otherwise directed by the FTC and the Court, the funds may not be applied to cover administrative expenses of the Receivership estate.



VII. ONGOING COURT PROCEEDINGS

The Receivership Team coordinated with legal counsel in connection with several court proceedings and ongoing litigation matters over the Reporting Period. An overview of the most significant developments are described below.

A. Fourth Circuit Proceedings

As previously reported, on September 13, 2022, the Fourth Circuit heard oral argument in connection with the appeals filed by defendants Andris Pukke, Peter Baker, John Usher and various entity defendants of the District Court's final orders. On November 1, 2022, the Fourth Circuit issued a written opinion in which it, in large part, affirmed the District Court's rulings and determined that the receivership would remain intact. The matter was remanded to the District Court for further proceedings consistent with the decision.

In response to the Fourth Circuit's opinion, the parties filed a number of pleadings. An overview of the Court filings that have followed the Fourth Circuit's opinion is set forth below:

- On November 17, 2022, the FTC filed a Motion for Clarification or, in the Alternative, Petition for Panel Rehearing before the Fourth Circuit, seeking confirmation that the monetary aspects of the default judgments entered against Usher and certain corporate appellants remained in effect.
- On November, 29, 2022, the Fourth Circuit denied the FTC's Motion for Clarification.
- On December 2, 2022, the defendants filed a Petition for Rehearing before the Fourth Circuit, seeking to vacate the \$120.2 million contempt sanction against Pukke, Baker, and Usher.
- On December 13, 2022, in anticipation of formal remand, the FTC filed a Request for a Status Conference with the District Court.
- On December 22, 2022, the District Court convened a Status Conference -- over the defendants' objection -- during which the parties discussed proceedings following formal remand, including an anticipated motion by the FTC to address the impact of the Fourth Circuit's ruling.
- On December 27, 2022, the FTC filed a motion in the District Court to confirm the Receiver's control over all assets that have been turned over to it pursuant to prior Court orders.



- On December 30, 2022, the Fourth Circuit denied the defendants' Petition for Rehearing.
- On January 4, 2023, the District Court granted the FTC's motion to confirm the Receiver's control over all assets that have been turned over to it pursuant to prior Court orders, stating that no receivership asset shall be returned to any of the defendants (absent further Court Order) and confirming that the Receiver "shall retain exclusive control, custody, and possession of all Receivership Assets...."
- On January 4, 2023, the District Court also entered a Stipulated Order setting a briefing schedule (occurring over a six-week period) in connection with the anticipated motion by the FTC addressing the impact of the Fourth Circuit's ruling.
- On January 6, 2023, the defendants moved for a stay of the remand to the District Court pending the filing of a petition for a writ of certiorari to the United States Supreme Court. On the same day, the Fourth Circuit denied the motion.
- On January 17, 2023, the matter was formally remanded back to the District Court, commencing the six-week briefing period for the FTC's motion addressing the impact of the Fourth Circuit's ruling.
- On January 31, 2023, the FTC filed a Motion to Reform and Reaffirm the District Court's Final Orders. Among other things, the FTC's motion seeks an order establishing that all monetary provisions of the prior orders entered against Pukke, Baker, Usher, the corporate defendants, and the Estate of John Pukke remain in effect following the Fourth Circuit's ruling on appeal.
- On February 6, 2023, the defendants filed an opposition to the FTC's Motion to Reform and Reaffirm the District Court's Final Orders.
- On February 21, 2023, the FTC filed a reply in further support of its Motion to Reform and Reaffirm the District Court's Final Orders.

Notwithstanding the Fourth Circuit's partial remand, the Receiver remains optimistic that the District Court will be in a position to authorize the implementation of additional steps to render consumer relief.

The Fourth Circuit also has a second matter pending before it involving an appeal filed by fourteen individuals and one corporate entity that were investors in Newport Land Group -- a receivership entity whose assets also were expressly placed into the receivership pursuant to a motion brought by the original receiver. The appeal is of the District Court's June 23, 2022 Order denying appellants' motions to intervene and for relief from judgment in the underlying litigation.



The appeal was fully briefed over the Reporting Period and oral argument occurred on March 8, 2023.

B. Bella Mar/Diaz-Cueto Litigation

As referenced in prior reports, on August 12, 2021, the original Receiver filed a Complaint against Jorge Diaz-Cueto and Bella Mar Associates (“Bella Mar”) to recover \$1,065,000 paid by the receivership entities towards the purchase of a large tract of land in The Bahamas purportedly owned by Bella Mar. Defendants filed a motion to dismiss the complaint, which was denied by the District Court on August 9, 2022. The District Court entered Modified Scheduling Orders extending the discovery end date from late February 2023 until late June 2023. The parties have reached an agreement in principle to resolve the matter, subject to completing and executing settlement documentation and obtaining Court approval.

C. Kanantik Recognition Order Application

As described in earlier reports, the Receiver pursued an order in Belize to support the receivership estate’s controlling interests in the Kanantik development area. In July 2022, the Receivership Team, with the assistance of legal counsel at Barnes & Thornburg and local counsel in Belize, filed an application in the Supreme Court of Belize seeking recognition of the applicable US Court orders to enable the Receivership Team to, among other things, market and sell the Kanantik development area parcels once permitted to do so by the District Court. On November 30, 2022, the Supreme Court of Belize entered an order granting the Receiver’s application.

VIII. PROPOSED RECOMMENDATIONS FOR THE REMAINING PHASES OF THE REDRESS PLAN

Recognizing the significant passage of time and changes in circumstances over the years since the Sanctuary Belize and Kanantik lot interests were originally marketed and sold to consumers as part of a fraud scheme promising extraordinary amenities and other development



progress that never materialized, the Receiver is hereby proposing recommendations for the Court’s consideration in evaluating the next steps of Redress Plan implementation. The Receiver believes that the recommendations are supported by commercial considerations that prioritize attainable consumer choices, while enabling significant process efficiencies and corresponding cost savings.

To inform the recommendations, the Receivership Team has also drawn on its institutional knowledge derived from operations and maintenance oversight of the Belize land assets, consumer engagement and related Redress Plan administration to date, and United States and Belize-based Court proceedings. In addition, in consultation with real estate industry professionals, the Receiver has taken into account significant shifts in global real estate market forces over the last few years (e.g., inflation, rising interest rates, supply chain disruptions, and other investment and construction-related factors), as well as the Belize real estate development environment and the corresponding risks identified in Redress Plan Disclosure Nos. 1 – 4. Further, the Receiver has communicated with the FTC over the Reporting Period to share the Receivership Team’s perspectives and refine thinking around the recommendations.

Based on all of the foregoing, the Receiver proposes the following recommendations for the Court’s consideration to guide Redress Plan next steps:

- (1) Commence first round of redress payments via check for eligible consumers using the pro rata distribution methodology set forth in the Redress Plan, based on Amount Paid data collected by the Receiver through the Claim Application process.
- (2) Engage a qualified international real estate broker, prepare marketing materials, address remaining land validation issues, and initiate an accelerated Request for Information (“RFI”) process directed to a targeted number of representative developers in order to gauge interest in the Belize land parcels and better understand current market dynamics impacting the development areas.
- (3) Formally survey the entire population of eligible consumers to determine one of three binding elections for those wanting to:



- (i) immediately pay off remaining balances owed under existing lot agreements (with their own funds and/or self-directed financing) to acquire title via reformed contracts;¹⁸
 - (ii) keep their lot acquisition options open and consider available buying options (with any available financing) once a new developer may be identified; or
 - (iii) forego any remaining or future lot interests and only receive redress payments.¹⁹
- (4) Armed with more particular information following the RFI process derived from developer perspective (using Redress Plan parameters as a starting point), as well as consumer preferences derived from survey elections -- direct the Receiver's real estate broker to launch a formal Request for Proposal ("RFP") process targeting a broad pool of prospective qualified developers.
- (5) To the extent that an agreement with qualified developer(s) could be reached (and approved by the Court), consumers who previously expressed interest in buying their original lot(s) in survey elections would then be formally offered the option of doing so pursuant to terms and conditions agreed to by the qualified developer(s).²⁰
- (6) A subsequent round of redress payments would be made to eligible consumers upon: (i) completion of a sale of the real estate assets to a qualified developer(s); or (ii) determination (subject to Court approval) that a sale of some or all of the real estate assets to a qualified developer(s) cannot be reasonably accomplished.

Most notably, this framework allows for critical threshold marketing and sales activities to come *before* currently-envisioned Redress Plan administration steps must be undertaken (and their associated costs incurred).²¹ The recommendations are not intended to present a Redress Plan

¹⁸ One-time sales price discounts for these consumers are contemplated for application at the time of purchase.

¹⁹ The survey results would also likely be relevant to enable prospective developers to envision land planning configurations and conduct financial modeling as they assess things such as remaining lot availability and/or the location of improvements across the development areas.

²⁰ Among other things, proposed lot purchase discounts in line with Redress Plan parameters would be the subject of negotiations with interested developer(s). It is anticipated that the responsibilities for drafting of contractual and other real estate documentation associated with such purchases, as well as subsequent administration functions, would be the responsibility of successor developer(s).

²¹ For example, implementation of these proposed recommendations could eliminate expenses associated with: (i) broadly distributing Seller Deceptive Price and Purchase Price calculations and Template Contracts to all eligible consumers (see Redress Plan Sections III(B) and (H)); (ii) distributing Reformed Contracts to relevant consumers (see Redress Plan Sections III(F) and (L)); (iii) distributing Mortgage Notes to consumers who have balances on their lot(s) (see Redress Plan Sections IV(C) & (F)); and (iv) initiating foreclosure proceedings in Belize if a Lot Purchaser is in arrears (see Redress Plan Sections IV(C) and (F)).



alternative, but rather to offer a more tailored, flexible approach that prioritizes land transfer to a qualified developer(s) and reduces administrative expenses that would otherwise be incurred without any guaranty that a sale meeting the requirements of the Redress Plan could be accomplished. Moreover, the Receivership Team is of the view that this proposed approach does not require a wholesale reworking of the Redress Plan; rather, the recommendations contemplate relatively targeted revisions to certain Redress Plan process steps that can be implemented through a phased approval process, akin to the Court's approach in directing the implementation of Sections II through III.A of the Redress Plan in its August 18th Order.

While the Receiver will remain available to discuss these recommendations at the Court's convenience, it is respectfully suggested that a status conference be scheduled in the near term to facilitate further evaluation of the proposed framework and underlying considerations.

IX. CONCLUSION

During the Reporting Period, the Receivership Team, among other things: (i) completed administration of the initial stages of the Redress Plan in accordance with the August 18, 2022 Order; (ii) advanced priority operations and maintenance initiatives; (iii) further evaluated anticipated real estate marketing and sales efforts; and (iv) coordinated with legal counsel in connection with ongoing proceedings.

In anticipation of administering the remaining phases of the Redress Plan, the Receiver has proposed recommendations centered around marketing the various Belize land assets *before* undertaking substantial additional administration activities (and incurring related costs). The proposed recommendations are designed to generate significant process efficiencies and substantial cost savings, while promoting informed consumer decision making. In this regard, the Receiver has



respectfully suggested that the Court convene a status conference to discuss the Receiver's proposed approach and potential next steps.

By: 

Marc-Philip Ferzan
Receiver

Submitted: March 9, 2023