

## **In re Sanctuary Belize Litigation**

Consumer Committee Meeting

Virtual Teleconference

May 25, 2023 | 3:30pm – 5:00pm ET

<b>Invitees</b>	
<b>Name</b>	<b>Affiliation</b>
Craig Hibbert	Consumer Committee Member
James (Jimbob) Slocum	Consumer Committee Member
Jodi Vance	Consumer Committee Member
Leslie Thomas	Consumer Committee Member
Linda Ozminkowski	Consumer Committee Member
Lisa Daniels	Consumer Committee Member
Michele Westlander Quaid	Consumer Committee Member
Shawna Arop	Consumer Committee Member
Shryl Kirkbride	Consumer Committee Member
Benjamin Theisman	FTC
Marc Ferzan	Receivership Team
Mike Schultz	Receivership Team

### **Agenda**

- I. Receivership Updates
- II. Other Court Proceedings
- III. Consumer Committee Member Feedback / Questions

Meeting called to order at 3:30 p.m. ET

## **I. Receivership Updates**

### Brush fire contained and extinguished in Savannah area of Sanctuary Belize development

- A brush fire that was identified in the Savannah area during the week of May 15<sup>th</sup> was monitored, contained, and extinguished with the help of staff (and in coordination with Belize emergency personnel and protocols).
- A damages assessment is currently underway, but the Receivership Team is not aware of any harm to individuals or building structures.

### Revised proposed form of order submitted to the District Court by the Receiver

- As discussed during prior Consumer Committee meetings, in connection with the recommendations made in the Receiver's March 9, 2023 Redress Plan Progress Report & Receivership Update, and upon the request of the Receiver (and the FTC's joinder in the request), the U.S. District Court for the District of Maryland (the "District Court") convened a Status Conference hearing on April 20, 2023 to further consider those recommendations and next steps relative to consumer redress across the following three areas:
  - Distributing initial redress payments to Sanctuary Belize consumers;
  - Commencing marketing activities in connection with the Belize land and other assets; and
  - Offering consumers certain lot-related options via a binding online survey.
- After hearing from the parties, the District Court indicated that it was amendable to authorizing the Receiver's recommendations and directed the Receiver's counsel to submit a proposed form of order to authorize the next steps of redress administration accordingly.
- On May 11, 2023, following filings from the FTC and the Defendants commenting on the Receiver's original proposed form of order, the Receiver submitted a revised proposed form of order, which is pending before the District Court.

### Claim Application process / Aggregate Redress Plan Amount Paid calculations

- The Claim Application dispute notice process ended on April 27<sup>th</sup>, 10 days after the Receiver responded to the limited number of dispute notices that were submitted by claimants after eligibility notifications were distributed.
  - Following the Receiver's final responses to the dispute notice challenges, the Receivership Team is unaware of any follow-up submissions by consumers to the District Court within the required timetables of the Redress Plan.
- Based on current information:
  - there are approximately 1,200 eligible Sanctuary Belize claims, for which a total of approximately \$135 million was paid by all corresponding eligible consumers in qualifying Redress Plan payment amounts.
  - there are approximately 460 eligible Kanantik claims, for which a total of approximately \$24 million was paid by all corresponding eligible consumers in qualifying Redress Plan payment amounts.

- Any first round redress payments authorized by the District Court for Sanctuary Belize claims are expected to come from funds obtained in the Atlantic International Bank litigation settlement. There are currently no cash proceeds available to make redress payments to Kanantik lot purchasers. It is anticipated future redress payments for Kanantik claims would come from the sale of Kanantik land and other assets.

#### Proposed pro rata distribution methodology

- The District Court has yet to approve a redress payment distribution formula and/or amounts for distribution to eligible Sanctuary Belize lot purchasers.
  - The suggested pro rata distribution formula outlined in the Receiver's May 11<sup>th</sup> proposed form of order is based on:
    - the Amount Paid set forth in the Claim Eligibility Notification for each corresponding Sanctuary Belize lot, divided by the aggregate qualifying Amounts Paid associated with all Sanctuary Belize lots.
    - Based on this pro rata multiple, the proposed formula for the District Court's consideration is as follows:
      - $(\text{Pro rata multiple per individual Sanctuary Belize claim}) \times (\text{Court Ordered Distribution Amount available for all Sanctuary Belize claims})$ .
- Individual Claim Application redress payment amounts will be calculated once the District Court authorizes the Receivership Team to proceed.
- There are still a few remaining issues relative to certain limited claimant situations that will need to be considered by the District Court prior to redress payment distribution; however, the Receivership Team is already taking preliminary steps to prepare for administration of the first round of redress payments to eligible Sanctuary Belize lot purchasers.

## **II. Other Court Proceedings**

#### Other matters before the District Court

- As discussed during prior Consumer Committee meetings, on January 31, 2023, the FTC filed its Motion to Reform and Reaffirm the 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 May 5, 2023, the Defendants filed a Motion for Return of Property based on the same arguments that they advanced in opposition to the FTC's Motion to Reform and Reaffirm the Final Orders. These argument include that that the Supreme Court's decision in *AMG Capital Management, LLC v. FTC* should result in reversal of the District Court's prior orders.

\*Following the May Consumer Committee meeting, the District Court issued an Order and Memorandum Order on May 31, 2023, which granted (in substantial part) the FTC's Motion to Reform and Reaffirm the Final Orders and denied the Defendants' Motion for Return of Property. The Order and Memorandum Order are available on the Receivership website at [www.SanctuaryBelizeReceivership.com](http://www.SanctuaryBelizeReceivership.com).

### Pending petition for writ of certiorari before the Supreme Court

- On April 3, 2023, the Defendants filed a petition for a writ of certiorari to the Supreme Court. The petition seeks reversal of the Fourth Circuit's affirmance of the District Court's rulings with respect to, among other things, the underlying contempt findings against the Defendants.
- On May 2, 2023, the Solicitor General filed a request for an extension of time to respond to the petition until June 2, 2023. On May 3, 2023, the Solicitor General's request was granted.

### **III. Consumer Committee Member Feedback / Questions**

- Engagement from Consumer Committee members was addressed by the Receivership Team members and the FTC.

*Meeting adjourned at 4:36 p.m. ET*