



ankura 

***In re Sanctuary Belize Litigation  
18-cv-3309 (D. Md.) (PJM)***

**Receiver Report of Activities for the  
Period July 1, 2023 to September 30,  
2023**

Submitted: November 10, 2023



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## 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 an overview of relevant receivership administration and oversight activities that were undertaken over the reporting period from July 1, 2023 through September 30, 2023 (the “Reporting Period”), unless otherwise indicated.

After completing the Claim Application program pursuant to the requirements of the August 18, 2022 Court Order and the approved Redress Plan components, the Receivership Team made recommendations in its March 9, 2023 Redress Plan Progress Report & Receivership Update concerning the next phase of consumer redress, which were intended to generate process efficiencies, achieve cost savings, and better inform consumer choices. The Receiver sought Court approval to: (i) issue \$10 million in redress payments to eligible Sanctuary Belize consumers<sup>1</sup>; (ii) undertake an accelerated approach to the marketing of Belize land assets tailored to market feedback and conditions; and (iii) administer a binding lot election survey to empower consumer choices and streamline administration corresponding to those choices. By order dated June 14, 2023 (the “June 14<sup>th</sup> Order” or the “Order”), the Court approved the recommendations and authorized the Receiver to proceed with the next phase of consumer redress.

From mid- June through mid-August 2023, the Receivership Team undertook preparatory steps in advance of issuing redress payment checks, including: (i) calculating the amount of redress to be distributed to each eligible Sanctuary Belize consumer utilizing the *pro rata* distribution

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<sup>1</sup> There are currently no cash proceeds available to make redress payments to Kanantik and other covered development area lot purchasers, as the Redress Plan contemplates that such payments will come from liquid Kanantik assets (of which there are presently none). It is anticipated that future redress payments for those claims will come from the sale of Kanantik land and other assets.



formula set forth in the June 14<sup>th</sup> Order; (ii) drafting, in coordination with the Federal Trade Commission (the “FTC”), consumer notices containing relevant information regarding the redress payments; (iii) developing customer support resources to respond to anticipated consumer inquiries; and (iv) addressing certain claims requiring further analysis, additional consumer engagement, and/or Court approval of eligibility determinations. As of November 2, 2023, the Receivership Team had issued redress payments to 1,204 eligible Sanctuary Belize consumers, and a total of \$9,110,436.54 in corresponding redress funds had been transferred.<sup>2</sup>

In addition to distributing the first round of redress payments during the quarter, the Receivership Team, working closely with its real estate broker CBRE, Inc. – Global Commercial Real Estate Services (“CBRE”), completed a Request for Information (“RFI”) process with representative investors and developers for the purpose of, among other things, assessing interest in the Belize land assets, determining the investment priorities and needs of potential purchasers, and assisting in the development of a formal bidding process. Utilizing the information obtained from the RFI process and other sources, the Receivership Team and CBRE have been preparing formal Request for Proposals (“RFP”) offering materials, in accordance with the June 14<sup>th</sup> Order, to solicit bids for the purchase of the Belize land assets. It is anticipated that the RFP bidding process will commence in the first quarter of 2024.

Following a status conference and motions hearing before the Court on October 10, 2023, the FTC continued drafting lot election survey materials in consultation with the Receivership Team. The survey will allow eligible consumers who have not previously acquired title to their lot

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<sup>2</sup> Out of the \$10 million allocation, the Receivership Team reserved sufficient funds to disburse potential future redress payments in connection with claims requiring Court approval (as described in Section II.A), as well as other unique claims necessitating supplemental documentation from consumers, including those involving deceased lot owners whose estates are undergoing probate.



to select one of three binding election options concerning how they wish to move forward: (i) acquire their lot and proceed to finalize the purchase (to the extent that title to the property is available to be transferred) in advance of the RFP process being completed; (ii) defer the decision of whether to acquire their lot until the RFP process has been completed; or (iii) waive any right to acquire a lot in the future. Among other things, the survey will include risk disclosures associated with each option. It is currently expected that the survey will be made available to eligible consumers by email in or before January 2024 following resolution of certain remaining implementation issues before the Court (as further discussed in Section II.C below). The emails will include a link to the online survey form for consumers to review, complete, and submit. Consumers will be provided 90 days from the survey becoming available to consider the disclosures, weigh the risks, and evaluate other relevant factors in order to make their survey elections.

Over the quarter, the Receivership Team also: (i) continued to oversee required operations and maintenance activities in Belize in accordance with the requirements of governing court orders; (ii) engaged with legal counsel in connection with ongoing court proceedings across multiple jurisdictions and venues; and (iii) kept consumers apprised of significant receivership activities and developments through updates to the Receivership website, distribution of Consumer Committee meeting minutes, and responses to inquiries directed to the Receivership Team's dedicated email address.

## **II. STATUS OF IMPLEMENTATION OF THE JUNE 14, 2023 ORDER**

Pursuant to the June 14<sup>th</sup> Order, the Court authorized the Receiver to: (i) distribute \$10 million in redress payments to eligible Sanctuary Belize consumers; (ii) commence marketing activities in connection with the Belize land and other assets; and (iii) offer eligible consumers



certain lot-related options through a binding online survey. The Receivership Team made progress with respect to all three initiatives during the Reporting Period.

#### **A. Distribution of Initial Redress Payments to Eligible Sanctuary Belize Consumers**

The June 14<sup>th</sup> Order authorized the Receiver to make an initial \$10 million distribution to eligible Sanctuary Belize consumers on a *pro rata* basis within 90 days of entry of the Order. The Order directed that the \$10 million allocation come from the segregated funds held by the Receiver originating from the \$23 million settlement proceeds paid by Atlantic International Bank Limited (“AIBL”) pursuant to the September 25, 2019 Stipulated Order for Permanent Injunction and Monetary Judgment (the “2019 AIBL Order”). As provided in the June 14<sup>th</sup> Order, the calculation for *pro rata* distribution payments was based on the Amount Paid<sup>3</sup> set forth in each eligible claim notification, divided by the aggregate Amounts Paid set forth in all eligible claim applications associated with Sanctuary Belize lots, multiplied by the \$10 million authorized for distribution. Applying this formula, the Receivership Team determined the *pro rata* amounts for each eligible Sanctuary Belize claim.

As previously reported, on August 16, 2023, the Receivership Team issued and mailed redress payments to eligible Sanctuary Belize consumers at the addresses provided in their Claim Application. In instances involving multiple co-owners, the Receivership Team directed a single check (payable to all corresponding co-owners) to the mailing address provided by the lead claimant. Instruction was provided in email and paper notices accompanying the checks that joint checks require all listed parties (including co-owners, business entities, trusts, estates, and/or IRAs) to endorse the check. The notices also: (i) included information concerning the calculation of the

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<sup>3</sup> All capitalized terms that are not otherwise defined herein shall have the meaning ascribed to them in the Redress Plan.



specific amount of redress for each eligible Sanctuary Belize claim; (ii) provided instructions for multiple payee checks; (iii) advised of the 120-day deadline to redeem the checks; and (iv) noted that consumers are responsible for adhering to any legal and regulatory requirements associated with their business entity, trust, estate, and/or IRA (as may be applicable) in connection with receiving and directing check proceeds.

To provide further guidance to consumers, the Receivership Team also posted frequently asked questions (“FAQs”) on the Receiver’s website and made available customer support resources to address consumer inquiries associated with redress payments and other receivership matters via the “Contact Us” button on the Receiver’s website at [www.SanctuaryBelizeReceivership.com](http://www.SanctuaryBelizeReceivership.com), and by email at [info@sanctuarybelizereceivership.com](mailto:info@sanctuarybelizereceivership.com). Through these channels, the Receivership Team was able to, among other things, process updates to consumer names and mailing addresses, as well as to accommodate special requests such as issuing separate redress checks for joint owners and initiating redress payments by wire (under appropriate circumstances).<sup>4</sup>

As of November 2, 2023, the Receivership Team had issued redress payments to a total of 1,204 eligible Sanctuary Belize consumers in the aggregate amount of \$9,943,985.82, and \$9,110,436.54 in corresponding redress funds had been transferred to consumers. The Receivership Team also took steps to distribute additional redress payments to consumers following entry of the

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<sup>4</sup> In total, the Receivership Team addressed more than 500 email communications over the Reporting Period regarding topics that included consumer redress activities, Claim Application eligibility determinations, and court proceedings. In addition to responding to consumer inquiries, the Receivership Team apprised consumers of pertinent developments through the Receiver’s website, which has been regularly updated with relevant court filings and Consumer Committee meeting minutes. Notices of Consumer Committee meeting minutes were also emailed directly to consumers. Pursuant to the June 14<sup>th</sup> Order, Consumer Committee meetings are to generally occur on a quarterly basis going forward, unless the Receiver determines that convening a meeting in the interim would be beneficial based on developments in administering the next phase of consumer redress.



Court's October 10, 2023 Order Granting the Receiver's Motion for Order Determining Certain Claims,<sup>5</sup> as well as in connection with the processing of other unique claims necessitating supplemental documentation from consumers, including those involving deceased lot owners whose estates are undergoing probate.

## **B. Belize Real Estate Marketing and Sales Activities**

In accordance with the requirements of the June 14<sup>th</sup> Order, the Receivership Team, together with CBRE,<sup>6</sup> engaged in an information gathering process to, among other things, assess interest in the Belize land assets, better understand current market conditions, determine investment priorities and needs of potential purchasers, and assist in the development of a formal bidding process. During the Reporting Period, the Receivership Team conducted seven one-hour sessions with representative investors and developers to complete the Court-ordered RFI process by August 18, 2023.

Over the course of the RFI sessions, the Receivership Team discussed with the participants, among other things, how they viewed the opportunity to acquire the Belize land assets under different circumstances including as a potential comprehensive acquisition or by purchasing select

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<sup>5</sup> In the underlying motion, the Receiver sought a determination that: (i) two Post-Filing Transferor claims were eligible for redress payments on the basis that the original purchases were made prior to the defendants' misconduct becoming public; (ii) three Post-Filing Transferee claims were ineligible because, among other reasons, there was ample information in the public domain concerning defendants' fraudulent conduct at the time of their purchases; and (iii) a claim involving an Ankura employee who was walled off from the Receivership Team was eligible on the basis that the consumer's Claim Application was timely submitted and analyzed utilizing the same objective review process as that applied to all other consumers without any favorable treatment.

<sup>6</sup> As previously reported, the Receiver selected CBRE -- one of the largest commercial real estate services and investment firms in the world, with clients in more than 100 countries -- following review of multiple proposals and interviews of potential brokers. It was determined that CBRE has the necessary expertise, experience, market knowledge, resources, reputation, track record, client network and competitive fee structure and terms that made it the most advantageous choice to assist in the marketing of the Belize land assets. Pursuant to the listing agreement, CBRE will serve as the broker for the Belize real estate assets for an initial period of 18 months and help support any and all Court-approved sale(s).





parcels, potential challenges they perceived in acquiring and/or developing the Belize land assets, and factors that they viewed as relevant to informing whether they would make a bid for some or all of the land, as well as how they would formulate their potential bids. Generally, the participants suggested that flexibility in the bidding process would likely be perceived as beneficial to prospective bidders from across the world, and the likelihood of actual bids would be dependent on consideration of a broad range of factors including, but not limited to, potential bidders' assessments of Belize's economy and workforce, the local real estate marketplace, the impacts of the negative history of the development areas arising out of the defendants' fraud, the condition of existing infrastructure, and a host of other economic, legal and regulatory issues that would be the subject of due diligence.

Although it remains uncertain whether the RFP bidding process will generate actual bids, and, if so, whether any such bids would merit recommendation for approval to the Court, the feedback obtained by the Receivership Team and CBRE has proven beneficial to the shaping of the RFP process. Considering the feedback derived from the RFI process and other relevant information, the Receivership Team and CBRE began drafting offering materials and continue to evaluate a range of strategic considerations in advance of initiating the RFP process. The Receivership Team and CBRE are also undertaking additional land validation efforts to supplement the virtual data room (designed to facilitate the due diligence requirements of prospective investors and developers) with relevant land records, title analyses, surveys, maps, government permits and approvals, corporate records, court filings, photographs and other relevant documentation. Following these ongoing efforts and in consideration of the administration of the upcoming consumer lot surveys, the Receivership Team anticipates the formal bidding process will commence in the first quarter of 2024.



### **C. Development of Lot Election Survey**

As required by the June 14<sup>th</sup> Order, as soon as practicable after the conclusion of the RFI process, the Receiver is directed to distribute an online lot choice survey to all eligible consumers. The survey, which will contain risk disclosures in accordance with the terms of the Order, is required to provide each eligible consumer with the opportunity to select one of three options (summarized as follows):

- Acquire their lot and proceed to finalize the purchase (to the extent that title to the property is available to be transferred) in advance of the RFP process being completed (“Option No. 1”);
- Defer decision of whether to acquire their lot until after completion of the RFP bidding process and Court approval of a potential sale of some or all of the Belize assets (“Option No. 2”); or
- Decline to acquire their lot and waive all rights to acquire a lot at any time in the future as part of any Court-approved redress (“Option No. 3”).

Additional details regarding each of the three options are set forth below.

#### **i. Option No. 1**

In accordance with the Order, consumers electing survey Option No. 1 will be entitled to complete the purchase of the lot reflected in their approved Claim Application and acquire title to the extent that: (i) it is located in a Belize government-approved subdivision; (ii) any competing claims have been resolved in the consumer’s favor; and (iii) the transaction is otherwise determined to be permissible pursuant to Belize legal and regulatory requirements and factoring in other relevant considerations that may impact and/or preclude title transferability (including, but not limited to, encumbrances).<sup>7</sup> The Order further provides that, for those who select this option and have a lot that meets the foregoing conditions, the purchase price will be reduced from the original

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<sup>7</sup> The Order does not permit consumers to acquire lots other than the one(s) reflected in their approved Claim Application(s) under Option No. 1.



purchase price by up to approximately 35%.<sup>8</sup> Under the terms of the Order, if the new purchase price is less than the Amount Paid, the new purchase price will be zero, but the consumer will not be entitled to any refund on account of such difference. The Order also requires that consumers who elect Option No. 1 -- and have a lot with title that can be transferred subject to the foregoing conditions -- enter into a reformed contract and pay all closing-related costs, administrative and tax expenses, legal fees and costs, and any other professional services fees and costs in connection with the purchase, along with any remaining balance of the purchase price, in cash at closing using their own funds or financing obtained from third parties.

### **ii. Option No. 2**

In accordance with the Order, consumers electing Option No. 2 will be entitled to acquire a lot only to the extent that lots are ultimately offered for sale by the Court-approved purchaser and pursuant to terms and conditions offered by the purchaser and agreed to by such consumers.

### **iii. Option No. 3**

Pursuant to the Order, consumers electing Option No. 3 will remain entitled to receive redress payments based on the availability of funds, notwithstanding their decision to forego acquiring a lot.

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Following entry of the June 14<sup>th</sup> Order, the FTC, in consultation with the Receivership Team, began work on drafting the survey and supporting materials and, after a status conference before the Court on October 10, 2023, continued efforts to further develop the survey's content, including important disclosures describing the risks associated with each of the foregoing options.

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<sup>8</sup> The Order states that the new purchase price will be determined by taking the Seller Deceptive Price, multiplying it by a price multiplier of .65, dividing that figure by the Tax Adjustment Factor, and then reducing the sum by the Amount Paid for such lot.



Pursuant to the terms of the Court’s October 19, 2023 Order Clarifying, In Part, the Court’s Order Implementing Next Phase of Consumer Redress,<sup>9</sup> the FTC is authorized to draft and approve the survey language, as well as associated written materials that will be distributed to consumers. By November 2, 2023, the FTC had provided qualified approval of the survey, as well as the related consumer email communications and FAQ resources to support its administration. On November 8, 2023, the FTC filed a motion before the District Court seeking changes to certain aspects of the survey administration in order to facilitate the process for consumers who select Option No. 1. At the request of the Receiver, the Court convened a status conference on the same day to provide direction on whether the Receivership Team should proceed with the planned distribution of the survey in light of the potential for post-launch changes. At the status conference, the Court determined that the Receivership Team should not initiate the survey until adjustments related to the resources available to consumers who select Option No. 1 are further considered and resolved. To assist the Court in determining the scope of those changes, the Receiver was directed to submit briefing on the issues within two weeks. Based on the guidance received from the Court, it is anticipated that the survey will be made available to eligible consumers in or before January 2024.

Once the Receivership Team proceeds with the distribution of the survey, consumers will be provided 90 days to review the disclosures and evaluate the risks and other relevant factors prior to making their binding election. For lots involving co-owners, all individuals or entities listed in a joint Claim Application must separately complete and submit their own survey and choose the same option. To the extent that eligible consumers do not complete the survey or multiple co-owners do not select the same option, they will be assigned Option No. 2. In order to address consumer

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<sup>9</sup> Leading up to entry of the October 19, 2023 Order Clarifying, In Part, the Court’s Order Implementing Next Phase of Consumer Redress, the FTC filed a notice on August 31, 2023 with the Court seeking a status conference to discuss, among other things, the content of the survey.



inquiries and facilitate survey administration, the Receivership Team will make available tailored resources, including FAQs and customer support personnel.

The survey process will not only enable the Receivership Team to follow up with consumers concerning redress choices based on their elections, but it will also facilitate the collection of important foundational information that will be relevant to potential investors and developers who may be interested in bidding for the purchase of the available land in the Sanctuary Belize and Kanantik development areas.

### **III. BELIZE PROPERTY MANAGEMENT OVERSIGHT**

The Receivership Team continued to oversee operations activities in Belize in accordance with governing court orders. Belize staff generally undertook routine maintenance steps to preserve the condition of the development areas. The Receivership Team maintained the reduced level of staffing it previously implemented in 2022 -- which has generated cost savings of more than \$300,000 on an annualized basis -- and expects employee headcount to be relatively consistent for the foreseeable future. Even with the reduced staffing level, operations and maintenance expenses remain substantial, resulting in expected annual costs to the receivership estate of more than \$1.7 million. The Receivership Team continues to work together with Belize staff to prioritize efficiencies and control expenses where possible, while providing for the health and safety of Sanctuary Belize residents and ensuring that the property remains in a marketable condition in anticipation of the RFP process.

### **IV. ACCOUNTING AND FINANCIAL STATEMENTS**

#### **A. Financial Overview**

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 September 30, 2023, unless



specified otherwise. The operating expenses of Sanctuary Belize and Kanantik<sup>10</sup> are generally recorded on a cash basis as 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 anticipates performing additional evaluations of receivership assets in connection with real estate marketing and sales efforts. Over the Reporting Period, the receivership estate continued to generate income from higher interest rates associated with its cash holdings, resulting in actual interest payments of nearly \$25,000 per month, as well as approximately \$37,500 per month in accrued interest in a timed deposit account that is expected to mature in or about January 2024.<sup>11</sup>

Below are the Statement of Net Assets and Statement of Net Recoveries for the three-month Reporting Period.

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<sup>10</sup> As provided in the Final Order Concerning Kanantik, 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 potential successor developer.

<sup>11</sup> The Receivership Team also recovered \$17,000 in connection with an insurance claim involving the theft of a vehicle that occurred in 2018.



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

	<b>As of September 30, 2023</b>
<b>Assets:</b>	
Cash	\$ 16,006,209
Accrued interest on timed deposit	(1) \$ 218,114
<b>Total assets</b>	<b>16,224,323</b>
<b>Liabilities:</b>	
Allocated redress payment distribution per June 14, 2023 Court Order (2)	1,977,380
Ankura professional fees and expenses	440,131
Barnes & Thornburg professional fees	250,122
Arnold & Porter Kaye Scholer professional fees	554
Other accounts payable	70,958
<b>Total liabilities</b>	<b>2,739,145</b>
<b>Net assets available</b>	<b>\$ 13,485,178</b>

**Footnotes:**

(1) In April 2023, the Receiver transferred \$10 million to a Citibank Timed Deposit account with an interest rate of 4.4% and a maturity date of January 3, 2024. On the maturity date, the receiver will receive the \$10 million deposit plus expected interest of \$333,298.05. The amount reported in this schedule is the calculated interest accrued on this timed deposit as of September 30, 2023.

(2) This liability accounts for redress payments that were issued but had not yet been accepted by consumers as of September 30, 2023, in addition to funds that were reserved at the end of the Reporting Period to disburse future redress payments in connection with certain claims requiring Court approval (as described in Section II.A), as well as other unique claims necessitating supplemental documentation from consumers, including those involving deceased lot owners whose estates are undergoing probate.



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

	<b>For the Period</b>		<b>From Inception to</b>
	<b>July 1, 2023 to</b>		<b>September 30, 2023</b>
	<b>September 30, 2023</b>		<b>September 30, 2023</b>
<b>Recoveries:</b>			
Atlantic International Bank settlement	\$ -	\$	23,000,000
Previously reported recoveries	-		20,786,502
Other collections	18,821		1,093,021
Interest income	187,156		441,349
<b>Total recoveries</b>	<b>\$ 205,976</b>	<b>\$</b>	<b>45,320,872</b>
<b>Disbursements:</b>			
Redress payment distributions	(1) \$ -	\$	10,000,000
<b>Expenses:</b>			
Sanctuary Belize operating expenses			
Payroll	\$ 236,195	\$	4,496,725
Equipment, maintenance, and supplies	132,281		2,357,397
Employment taxes	34,084		739,931
Property taxes and other government payments	1,763		278,902
General, administrative, and other expenses	94,728		1,021,485
Legal fees and costs	14,704		508,237
Total Sanctuary Belize operating expenses	513,755		9,402,678
Kanantik operating expenses			
Payroll	18,666		347,535
Equipment, maintenance, and supplies	3,767		51,227
Employment taxes	-		44,422
Property taxes and other government payments	-		58,240
General, administrative, and other expenses	35,951		160,085
Legal fees and costs	-		42,467
Total Kanantik operating expenses	58,384		703,977
Real estate property expenses	630		1,810,134
Corporate entity expenses	-		80,859
Other expenses	3,651		147,485
Receiver fees and expenses			
Ankura fees and expenses	165,515		4,204,623
REA fees and expenses	-		2,847,275
Barnes & Thornburg fees and expenses	111,328		2,527,578
Arnold & Porter Kaye Scholer fees and expenses	-		111,084
Total receiver fees and expenses	276,844		9,690,561
<b>Total distributions &amp; expenses</b>	<b>853,264</b>		<b>31,835,694</b>
<b>Net recoveries/ (distributions &amp; expenses)</b>	<b>\$ (647,288)</b>	<b>\$</b>	<b>13,485,178</b>

**Footnote:**

(1) As of November 2, 2023, as part of the \$10 million allocation, the Receivership Team had issued redress payments for 1,204 eligible Sanctuary Belize consumers in the aggregate amount of \$9,943,985.82. The Receivership Team reserved sufficient funds to disburse potential future redress payments in connection with certain claims requiring Court approval (as described in Section II.A), as well as other unique claims necessitating supplemental documentation from consumers, including those involving deceased lot owners whose estates are undergoing probate.





## **B. Liquidity Considerations Requiring Use of AIBL Funds**

As reflected in the Statement of Net Recoveries, following the entry of the 2019 AIBL Order, the receivership estate historically included \$23 million in funds obtained in connection with the settlement of an FTC matter involving AIBL. At the close of the September 30, 2023 Reporting Period -- taking into account the adjustment in the Statement of Net Assets to reflect the \$10 million in AIBL settlement funds that were allocated for the first round of redress payments -- approximately \$13.49 million in liquid assets remained in the receivership estate. Approximately \$50,000 of these liquid assets were not attributable to the remaining AIBL settlement funds (factoring in accrued interest, as well as the costs for activities to implement the June 14<sup>th</sup> Order and address other receivership responsibilities and liabilities through the Reporting Period). As previously reported, due to projected receivership administration fixed and other costs associated with ongoing development area operations and maintenance activities in Belize -- which have totaled approximately \$10.1 million since the inception of the Receivership in November 2018 -- as well as ongoing and anticipated consumer redress initiatives and marketing and sales efforts required under the Court's June 14<sup>th</sup> Order, it is expected that the receivership will exhaust the remaining non-AIBL funds in the fourth quarter of 2023.

In anticipation of this occurrence, on August 17, 2023, the Receiver filed a motion before the District Court seeking a determination that the AIBL funds may be used for all receivership purposes (the "AIBL Motion") to ensure that the Receivership Team is able to meet all Court-ordered duties and responsibilities. On October 19, 2023, the Court entered an order (the "2023 AIBL Order") granting the Receiver's motion, in part, and permitting the Receiver to use: (i) all interest that has accrued or will accrue on the AIBL funds for the payment of any expenses of the receivership estate; and (ii) up to \$2 million of the principal of the AIBL funds for the payment of



any expenses of the receivership estate. In accordance with the terms of the 2023 AIBL Order, the Receiver will only use the AIBL funds once all other available funds in the receivership estate have been expended and will continue to seek Court approval of receivership fees and expenses going forward consistent with the terms of the Court's prior orders and Receivership Team practice.<sup>12</sup>

It is intended that future asset sales (including the Belize development area real estate) will replenish expended AIBL funds over time, so that maximum proceeds may ultimately be available for additional consumer redress payments. In the interim, access to the AIBL funds will enable the Receivership Team to meet its Court-imposed obligations with respect to, among other things, operations and maintenance of the development areas, and the administration of the lot election survey, as well as engagement in ongoing, coordinated efforts with CBRE to market the Belize land assets, while also addressing the defendants' persistent litigation challenges and other legal proceedings (as described below).

## **V. OTHER ONGOING COURT PROCEEDINGS**

Over the quarter, the Receivership Team continued to coordinate with counsel regarding ongoing legal proceedings. A summary of the most significant developments is contained below.

### **A. Civil Court Proceedings**

As previously reported, following appeals filed by defendants Andris Pukke, Peter Baker, John Usher and various entity defendants of the District Court's final orders, the Fourth Circuit issued a written opinion on November 1, 2022 in which it, among other things: (i) affirmed, in large part, the District Court's rulings; (ii) determined that the receivership would remain intact; and (iii) remanded the matter to the District Court for further proceedings consistent with its ruling.

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<sup>12</sup> The 2023 AIBL Order also authorizes the Receiver to seek future approval from the Court to use additional AIBL funds through the filing of a motion.



Following the Fourth Circuit's opinion, there has been ongoing litigation activity across a number of jurisdictions and venues.

#### *District Court Proceedings*

- 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 sought 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 would 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.
- On May 31, 2023, the District Court issued an Order and Memorandum Order, 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.
- On June 14, 2023, the Court entered a subsequent order Reforming and Reaffirming the Final Orders.
- On July 6, 2023, the Receivership Team filed its Motion for Order Determining Certain Claims (described in Section II.A above).
- On August 17, 2023, the Receiver filed the AIBL Motion (described in Section IV.B above), along with a Motion for an Order Approving and Authorizing Payment of Receiver's and Professionals' Fees and Costs from February 1, 2023 through June 30, 2023.
- Between August 31, 2023 and September 21, 2023, the FTC and Receiver submitted their respective filings in opposition and in further support of the August 17, 2023 motions. The FTC's filings included a request for a status conference.
- On October 10, 2023, the Court convened a status conference that culminated in the Court entering: (i) the 2023 AIBL Order; (ii) the Order Granting the Receiver's Motion for Order Determining Certain Claims; (iii) the Order Clarifying, In Part, the Court's Order Implementing Next Phase of Consumer Redress (described in Section II.C above); and (iv) an October 19, 2023 Order Granting the Receiver's Motion for an Order Approving and Authorizing Payment of Receiver's and Professionals' Fees and Costs from February 1, 2023 through June 30, 2023.



### *Fourth Circuit Appeal*

- On July 12, 2023, the defendants filed a Notice of Appeal of the Court’s June 14<sup>th</sup> Order and Order Reforming and Reaffirming the Final Orders.<sup>13</sup>
- On September 26, 2023, the defendants filed their opening brief in connection with their appeal. The FTC’s responding brief is due November 17, 2023.

### *Petition for Writ of Certiorari to the United States Supreme Court*

- On March 30, 2023, the defendants filed a Petition for a Writ of Certiorari to the Supreme Court seeking reversal of the Fourth Circuit’s affirmance of the District Court’s rulings with respect to, among other things, the underlying contempt findings against them.
- On June 2, 2023, the Solicitor General filed a brief in opposition to the defendants’ Petition for a Writ of Certiorari arguing that further review by the Supreme Court is not warranted.
- On June 15, 2023, the defendants file a reply in further support of their Petition for a Writ of Certiorari.
- On October 2, 2023, the Supreme Court denied the defendants’ Petition for a Writ of Certiorari.

### *United States Court of Federal Claims Complaint*

- On July 3, 2023, certain of the defendants filed a complaint in the United States Court of Federal Claims alleging that the U.S. government “illegally exacted” assets from them in connection with the proceedings before the District Court.
- On September 29, 2023, the United States filed a motion to dismiss the complaint on the basis that the Court of Federal Claims lacks jurisdiction to hear the case and, even if it did have jurisdiction, the complaint does not state a valid claim for illegal exaction.
- On October 27, 2023, the defendants filed their opposition to the motion to dismiss. The motion remains pending.

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<sup>13</sup> The Notice of Appeal does not automatically stay the June 14, 2023 Orders that are the subject of appeal, and the defendants have not filed a separate motion seeking a stay, so the underlying Orders remain in effect.



### *Notices to High Court of Belize*

- On August 25, 2023, the Receiver, through Belize legal counsel, filed Notices with the High Court of Belize advising that the District Court granted the FTC's Motion to Reform and Reaffirm the Final Orders, in substantial part, and denied the Defendants' Motion for Return of Property.<sup>14</sup>

#### **B. Federal Criminal Indictment of Andris Pukke**

As previously reported, on or about April 5, 2023, a two-count federal indictment charging Andris Pukke was unsealed in the United States District Court for the Southern District of New York. The indictment alleges that Mr. Pukke committed wire fraud and unlawful monetary transactions in connection with Sanctuary Belize-related conduct that occurred between in or about 2011 to in or about 2018. On April 19, 2023, Mr. Pukke entered a plea of not guilty. The next pre-trial conference is scheduled for November 17, 2023 and trial remains scheduled for March 18, 2024.

#### **VI. CONCLUSION**

As reflected above, the Receivership Team achieved progress over the Reporting Period in meeting its obligations under the Court's June 14<sup>th</sup> Order. As of November 2, 2023, an aggregate of \$9,110,436.54 in initial redress payments was transferred to eligible Sanctuary Belize consumers out of the \$10 million court-ordered allocation. Over the quarter, the Receivership also completed the RFI process with representative investors and developers through which it was able to, among other things, further assess interest in the Belize land assets and gain valuable information relating to the investment priorities and needs of potential purchasers. This information will be leveraged in the development of the RFP bidding process, which is expected to commence in the first quarter of 2024.

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<sup>14</sup> As provided in the prior Recognition Orders entered by the Belize courts, the Receiver is required to convey periodic updates regarding material developments in connection with the United States court proceedings.



In addition, the FTC and Receiver continued to develop work product to support lot election survey administration, which will allow consumers who have not already acquired title to their lot to select one of three binding elections: (i) keep their lot and proceed to finalize the purchase (to the extent that the property can be transferred) in advance of the RFP process being completed; (ii) defer the decision of whether to acquire their lot until after completion of the RFP process and Court approval of a potential sale of some or all of the Belize assets; or (iii) waive any right to acquire a lot in the future. The online survey will include disclosures of risks and other considerations associated with each option. The survey is expected to launch in or before January 2024 following resolution of pending issues before the Court.

The Receivership Team will continue to keep consumers and interested stakeholders apprised of relevant receivership developments over the upcoming quarter.

By:   
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**Marc-Philip Ferzan**  
**Receiver**

Submitted: November 10, 2023