

<p><b>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</b>  1437 Bannock Street  Denver, CO 80202</p>	<p>DATE FILED: April 30, 2021 3:27 PM  FILING ID: 64DB63F860C49  CASE NUMBER: 2019CV33770</p>
<p>TUNG CHAN, Securities Commissioner for the State of Colorado,   Plaintiff,   v.   MARK RAY; REVA STACHNIW; CUSTOM CONSULTING &amp; PRODUCT SERVICES, LLC; RM FARM &amp; LIVESTOCK, LLC; MR CATTLE PRODUCTION SERVICES, LLC; SUNSHINE ENTERPRISES; UNIVERSAL HERBS, LLC; DBC LIMITED, LLC,   Defendants.</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p><i>Attorneys for Court-appointed Receiver Gary Schwartz:</i>  John A. Chanin, #20749  Katherine A. Roush, #39267  FOSTER GRAHAM MILSTEIN &amp; CALISHER, LLP  360 South Garfield Street, Suite 600  Denver, Colorado 80209  Phone: (303) 333-9810  Fax: (303) 333-9786  Email: <a href="mailto:jchanin@fostergraham.com">jchanin@fostergraham.com</a>;  <a href="mailto:kroush@fostergraham.com">kroush@fostergraham.com</a></p>	<p>Case Number: 19CV33770   Division: 209</p>
<p><b>RECEIVER’S REPORT</b></p>	

Gary Schwartz, the duly-appointed receiver (“Receiver”) for Mark Ray (“Ray”), Reva Stachniw (“Stachniw”), Custom Consulting & Product Services (“Custom Consulting”), MR Cattle Production Services (“MR Cattle”), Universal Herbs (“UH”), DBC Limited (“DBC”), RM Farm & Livestock (“RM Farm”), and Sunshine Enterprises (“Sunshine” and collectively with Ray, Stachniw, Custom Consulting, MR Cattle, UH, DBC, RM Farm, and Sunshine, “Ray and the Ray Entities”), submits this quarterly report (“Report”) concerning the status and condition of the Receivership Estate.

## **I. Procedural History**

1. On September 30, 2019, David Cheval, then-Acting Securities Commissioner for the State of Colorado (the “Commissioner”), filed his Complaint for Injunctive and Other Relief against Ray and the Ray Entities. The Securities Commissioner is now Tung Chan.

2. On September 30, 2019, the Commissioner and Ray, Custom Consulting, MR Cattle, UH and DBC filed a Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over Ray, Custom Consulting, MR Cattle, UH and DBC pursuant to Colo. Rev. Stat. § 11-51-602(1) and C.R.C.P. 66.

3. On September 30, 2019, the Court entered a Stipulated Order Appointing Receiver (the “September 30 Order”) appointing Gary Schwartz of Betzer Call Lausten & Schwartz, LLP as receiver for Ray, Custom Consulting, MR Cattle, UH and DBC and their respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses (the “Ray Estate”) September 30 Order at ¶ 3.

4. On September 30, 2019, the Securities and Exchange Commission (“SEC”) filed a Complaint against Ray and the Ray Entities and Ronald Throgmartin in the United States District Court for the District of Colorado, case no. 19-cv-02789-DDD-NYW (the “Federal Case”).

5. On September 30, 2019 the SEC and Ray, Throgmartin, UH, Custom Consulting, MR Cattle, and DBC filed a stipulated request for the entry of consent orders in the Federal Case.

6. The Court in the Federal Case granted the request for entry of consent orders on October 10, 2019 (the “Ray Consent Judgments”).

7. On October 16, 2019, the SEC and Stachniw, RM Farm and Sunshine filed a second stipulated request for the entry of consent orders in the Federal Case.

8. The Court in the Federal Case granted the request for entry of consent orders on October 18, 2019 (the “Stachniw Consent Judgments”).

9. On October 30, 2019, the Commissioner and Stachniw, RM Farm and Sunshine filed a Second Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over RM Farm, Sunshine, and “the real property, equipment, supplies or inventory located at 12700 E. Lone Chimney Road, Glencoe, OK 74032 that are in the name of or under the control of” Stachniw (the “Stachniw Assets”) pursuant to Colo. Rev. Stat. § 11-51-602(1) and C.R.C.P. 66.

10. On November 4, 2019, the Court entered a Stipulated Order Appointing Receiver (the “November 4 Order” and collectively with the September 30 Order, the “Receivership Orders”) appointing Gary Schwartz of Betzer Call Lausten & Schwartz, LLP as receiver for the Stachniw Assets, RM Farm, Sunshine, and RM Farm’s and Sunshine’s respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses, and (the “Stachniw Estate”) and added the Stachniw Estate to the Ray Estate (collectively, the Stachniw

Estate and Ray Estate are referred to herein as the “Receivership Estate” or “Estate”). November 4 Order at ¶¶ 3, 4.

11. The Ray Consent Judgments and the Stachniw Consent Judgments both stay the Federal Case during the pendency of the above-captioned litigation.

12. This Report is submitted as required by paragraphs 9 in the Receivership Orders.

## II. Receiver’s Activities

13. In addition to the activities outlined in the Receiver’s previous reports, all of which remain ongoing, The Receiver and his staff have continued to diligently work on a forensic accounting on the entire Estate, to establish what monies came into and went out of the Estate and the various entities. That work is largely complete, but for continued analysis to evaluate possible claw-back litigation against individuals and entities and to evaluate claims made by creditors of the Estate.

14. The focus of the forensic accounting team over the past six months has been multi-faceted. The forensic accounting team has incorporated large amount of information from investors’ bank statements, reviewed and summarized the data entry in the form of detailed and summary reports of all banking activity for each party, and has begun the process to compare the banking activity entered to the claims made against the Estate.

15. As described in the last report to the Court, the Receiver and his legal team issued a large number of subpoenas targeted at investors’ banks with the goal of obtaining detailed documentation for transactions related to the Mark Ray enterprise. As a result of these subpoenas, the forensic accounting team received thousands of pages of documentation. Identifying the relevant transactions from this documentation has proven challenging. Because no formal accounting was maintained by Mark Ray, and a multitude of transactions related to the Mark Ray enterprise were conducted investor-to-investor, the forensic accounting team has had to analyze many investor accounts to identify those transactions most likely related to the Mark Ray enterprise.

16. To date, the forensic accounting team has entered over five thousand transactions from investor accounts that represent over \$500 million in both inflows and outflows. In context, the forensic accounting team entered almost forty thousand transactions from the Mark Ray enterprise bank accounts that represent over \$900 million of both inflows and outflows. In total, in absolute dollars, the forensic accounting team has entered over **\$2.97 billion** in funds flowing among and between the Mark Ray enterprise and the investors. To attempt to avoid double-counting transactions in the analyses, the forensic accounting team has created a complex matching algorithm to help flag transactions where the team believes they have information from both sides of a transaction. Of the approximately \$500 million in and out of the investor accounts, the forensic accounting team has matched approximately \$300 million of the investor account inflows and \$400 million of the outflows. This leaves approximately \$200 million and \$100 million respectively that was not contained in the entry of the Mark Ray enterprise accounts and largely represents investor-to-investor funds flow. These amounts have been associated to individual investors.

17. As described in the Receiver's previous reports, this process is necessarily iterative; the forensic accounting team continues to incorporate new information as it is received. A significant part of their analysis has been to understand the relationship of the parties to one another. They have worked with counsel for the Receiver to identify those parties who should be connected and considered together. For example, certain investors' transactions may have reflected their personal names when they contributed money to the Mark Ray enterprise but may have received funds from the Mark Ray enterprise under a different name, sometimes that of a business or a bank. By associating these different names together, the Receiver and the forensic accounting team can more accurately assess each individual investor's overall standing. By repeatedly summarizing and analyzing this information together with counsel, the forensic accounting team continues to refine their understanding and presentation of the net funds flow to and from each investor.

18. The forensic accounting team has created reports that summarize the funds flow for all parties involved with the Mark Ray enterprise, broken out by different groupings and have also created a report for each individual investor. This report summarizes all the funds flow by the various names associated with that investor and reflects every detailed transaction associated with that investor. These reports help the Receiver conduct a detailed analysis of claims submitted by the investors, as described in more detail below.

19. The forensic accounting team has also assisted counsel with providing information in reply to a variety of ad hoc requests regarding certain specific parties, which helps counsel in regard to a variety of other legal activities related to the estate.

20. The Receiver keeps and maintains a full creditor matrix that he updates regularly. The Receiver continues to identify and communicate with potential creditors of the Estate as they are identified and to collect information of their claims against the Estate. In January 2021, Receiver set up a website to better inform creditors of the Estate about developments in the Receivership case. The Receivership website is [www.rayreceivership.com](http://www.rayreceivership.com).

21. In October 2020, the Receiver sought and obtained Court approval for a claims process, which established a bar date on February 1, 2021. On January 20, 2021, the Receiver extended the claims bar date to March 15, 2021 to ensure every potential creditor had a chance to submit a claim.

22. As of the Bar Date, the Estate received 98 claims, totaling \$64,128,430.21. These claims include claims from vendors of the Estate, investors in the cattle scheme, and banks.

23. The Receiver is in the process of evaluating each claim and supporting documentation, and the Receiver's and the forensic accounting team's primary focus has now shifted to analyzing claims submitted. Using the information they have collected, the forensic accounting team is conducting a detailed analysis of each claim submitted. Ultimately, they expect to be able to provide to counsel and the Receiver a detailed reconciliation that identifies the transactions on a claim that are supported by banking information, those transactions a claimant may have failed to consider, and those transactions that may require additional review. This process will be necessarily iterative because the information submitted by the claimants varies in its nature and level of detail provided. The team fully expects that the information collected will

require supplementation because it is likely the investor-to-investor information supplied to date is incomplete.

### **III. Assets of the Receivership Estate**

#### **A. Estate Cash**

24. As of April 29, 2021, the balance in the Receivership checking account was \$243,269.03, while the balance in the Investment Account totaled \$5,431,205. The Investment Account is holding funds received from the civil settlement with Reva and Myron Stachniw. The Receivership payroll account has been closed as a result of the sale of Universal Herbs.

25. Any previously held cash from Universal Herbs was deposited into the Mark Ray checking account and was used the immediate payment of liabilities, including but not limited to rents and local, state and federal tax obligations.

#### **B. Universal Herbs**

26. Universal Herbs (UH), a marijuana dispensary and growing operation, is one of the primary assets of the Estate. UH has two retail dispensaries and one grow facility.

27. Pursuant to the previously executed Asset Purchase Agreement (“APA”), which was originally executed prior to the Receivership between UH and Titan Health LLC (“Titan”), and the various amendments to said agreements, the change of ownership of UH to Titan was approved by the MED on January 25, 2021. At the closing, Titan remitted the required \$150,000. Titan had previously remitted \$600,000 to UH at the time of the execution of the APA. The APA was approved by the Court on 8/3/2020. Pursuant to the terms of the Asset Purchase Agreement (“APA”), UH as seller is carrying back a secured promissory note in the amount of \$3.250 million.

28. As of the time of closing, virtually all state and local tax obligations had been paid. The IRS has filed a claim in the Mark Ray estate against UH in the amount of \$322,940.49, which represents Pre-Receivership Form 941 payroll taxes from 2018 and 2019 totaling \$19,111 and Pre-Receivership corporate tax owing for the tax period ending December 31, 2016 totaling \$313,855.94. The Receiver and his counsel have been in contact with the IRS about this Corporate tax claim.

29. In addition, the Receiver is also in discussion with the IRS over the balance owing on unpaid payroll taxes post-receivership for 2020. Those discussions are on-going. The alleged balance owing for these post-receivership payroll obligations is \$267,120.

#### **C. The Glencoe Ranch**

30. Per the Second Stipulated Motion for Appointment of Receiver, filed on November 4, 2019, the Court confirmed the fact that the Receivership estate included “...the real property, equipment, supplies or inventory located at 12700 E. Lone Chimney Rd., Glencoe, OK.” (the “Stachniw Assets”).

31. In October, 2020, the Receiver closed on the sale of the real property defined as the Stachniw Assets as well as additional real property adjacent to the Stachniw Assets (collectively known as “Glencoe Ranch”). The Court approved the sale of Glencoe Ranch on September 11, 2020. The purchase price for Glencoe Ranch was \$1,013,625.00. The Receiver allocated the funds from the sale of Glencoe Ranch as follows: (1) \$643,383.33 or the then-current payoff amount to pay off existing mortgages; (2) Payment of the pro-rated mortgage, taxes and insurance payments incurred from the date Glencoe Ranch was added to the Receivership Estate to closing; (3) The remaining balance is held in a bank account controlled by the Receiver until further order of the Court.

**D. Pending Litigation against Ray and the Ray Entities**

32. Before the Receiver was appointed, various lawsuits were pending against Ray and the Ray Entities. The following table summarizes the current status of that litigation.

<b>PENDING LITIGATION AGAINST RAY AND RAY ENTITIES</b>					
<b>Case Caption</b>	<b>Court</b>	<b>Case Number</b>	<b>Date Suit Commenced</b>	<b>Nature of Suit</b>	<b>Status</b>
<i>John Landry v. Mark Ray, individually, and Custom Consulting and Product Services, LLC</i>	United States District Court for the Southern District of Mississippi	1:19-CV-556 LG-RHW	9/4/2019	Breach of contract	Dismissed for lack of subject matter jurisdiction on 9/26/2019
<i>Youngdon Yun v. Mark David Ray, Custom Consulting and Product Services, LLC and MR Cattle Production Services, LLC</i>	Denver District Court	2019CV 32728	7/16/2019	Breach of contract	Case dismissed without prejudice on March 12, 2021
<i>Henderson State Bank v. Universal Herbs, LLC</i>	United States District Court for the District of Nebraska	19-cv-03070	7/10/2019	Fraud	Case stayed pursuant to Order dated January 8, 2020
<i>Helen Squire v. Mark D. Ray, Universal Herbs, LLC and Custom Consulting and Product Services, LLC</i>	Denver District Court	2019CV 032167	6/3/2019	Breach of contract, fraud	Dismissed without prejudice on 9/19/2019
<i>Beacon Integrated Technologies, Inc. and Secure Shield Enforcement</i>	Denver District Court	2019CV 32882	8/14/2019	Breach of	Stayed and administratively closed

<i>Solutions v. Universal Herbs, LLC, Mark Ray, Elite Security Services, LLC and E2T2, LLC</i>				contract, theft,	pursuant to Receivership Orders as of 10/17/2019
<i>Clark v. Ray and Custom Consulting and Product Services, LLC</i>	Denver District Court	2019CV 033554	9/12/2019	Breach of contract, theft	Dismissed without prejudice on January 13, 2021

#### **E. Miscellaneous Other Assets—Litigation Claims**

33. The Receiver and Plaintiff successfully negotiated a settlement agreement with Ms. Stachniw and her husband Myron Stachniw, resulting Reva and Myron Stachniw transferring approximately \$7 million in securities to the Estate. The Court approved the settlement on October 29, 2020.

34. The Receiver also continues to bring claims and to investigate potential claims against third parties who may have facilitated or participated in the scheme. The Receiver has brought a fraudulent transfer case against Ronald Throgmartin who is a defendant in the companion federal case brought by the SEC, seeking to avoid approximately \$2.4 million in fraudulent transfers made from the Estate to Throgmartin. The case was filed in the District Court of the Second Judicial District, Denver County, Colorado, Case No. 21cv31124.

35. On December 1, 2021, the Receiver filed a motion to compel production of various documents from JPMorgan Chase Bank, which the Court granted on December 2, 2021. The Receiver is continuing to investigate and evaluate defenses of Chase's claims against the Estate as well as affirmative claims against Chase.

36. The Receiver is identifying and investigating additional potential litigation claims against various parties and anticipates filing additional claims against other parties. These potential claims may allow the Receiver to recover assets transferred before and after the Receivership Orders were entered. At this time, the Receiver cannot provide any reasonable estimate of the value, if any, of these claims.

#### **IV. Summary of the Estate's Liabilities**

37. The full extent of the Estate's liabilities is presently unknown. However, Receiver summarized UH's known liabilities above, and continues to identify investors and creditors of the Estate.

38. In addition, the Estate has incurred obligations to counsel and experts to assist in recovering the Estate's assets as follows:

<b>Obligee</b>	<b>Amount of Obligation:</b>	<b>Basis of Obligation:</b>
Betzer, Lausten Call & Schwartz, LLP	\$ 85,423	Accounting Fees
Gary Schwartz, Receiver	\$ 66,470	Receiver's fees UH Expenses Paid by Receiver
Foster Graham Milstein & Calisher, LLP	\$ 123,099.23	Legal Fees

The Receiver's fees noted above includes monies paid to various consultants assisting with the administration and operation of UH. In addition, the Receiver has paid certain expenses and obligations of UH through the extension of a loan to the Estate. These represent critical expenses that were time sensitive. This loan will be repaid as funds become available.

39. The Receiver continues to investigate the assets and liabilities of the Estate and will file additional periodic reports as contemplated by the Receivership Orders.

40. Pursuant to paragraphs 9 in the Receivership Orders, the Receiver hereafter will file bi-annual reports, with his next report due at the end of October 2021, and every six (6) months thereafter.

DATED this 30th day of April, 2021.

FOSTER GRAHAM MILSTEIN & CALISHER, LLP

By: /s/ John A. Chanin  
 John A. Chanin, #20749  
 Katherine A. Roush, #39267

*Attorneys for Court-appointed Receiver Gary Schwartz*



**CERTIFICATE OF SERVICE**

I hereby certify that on April 30, 2021, a true and correct copy of the foregoing **RECEIVER'S REPORT** was electronically filed and served on all parties of record via the Colorado Court E-Filing System.

I further certify that on April 30, 2021 a true and correct copy on the foregoing **RECEIVER'S REPORT** is being posted to the website [www.rayreceivership.com](http://www.rayreceivership.com).

*/s/ Lucas Wiggins* \_\_\_\_\_  
Lucas Wiggins