

<p><b>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</b>  1437 Bannock Street  Denver, CO 80202</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 style="text-align: center;"><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 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 per paragraphs 9 in the Receivership Orders.

## **II. Receiver's Activities**

13. In addition to the activities outlined in the Receiver's previous reports, the Receiver, his forensic accounting team, and counsel, completed its forensic accounting of the entire estate and analyzed all the claims submitted to the Estate by creditors, as discussed in more detail below.

14. 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).

## **III. Claims Process**

15. 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.

16. As of the Bar Date, the Receiver received 93 claims, totaling \$56,408,601.00. These claims include claims from vendors of the Estate, investors in the Ponzi scheme, and banks.

17. The Receiver, counsel and the forensic accounting team completed their analysis and review of all claims submitted to the Estate, and the Receiver filed a detailed proposed Plan of Distribution ("Plan") on February 13, 2023, and sent the same, including the notice of the proposed plan and all attached schedules and analysis, to all creditors of the Estate who filed claims.

18. The Receiver later filed an amended proposed Plan of Distribution ("Amended Plan") on May 22, 2023, in order to reflect settlements with two possible objectors to the Plan and to update the classification of one claimant based on a recent criminal conviction.

19. Two claimants, Reva Stachniw and Monte Lowderman, filed objections to the Plan. The Court heard arguments on these two objections on June 29, 2023. The Court denied the objections and approved the Amended Plan on June 29, 2023.

20. Pursuant to the Amended Plan, on September 28, 2023, the Receiver mailed checks to all creditors entitled to a distribution pursuant to the Amended Plan. The Receiver expects to make additional distributions in the future.

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

### **A. Estate Cash**

21. As of 3/11/2024, the balance in the Receivership checking account was \$24,266, while the balance in the Investment Account totaled \$1,158,545. The Investment Account is

holding funds received from the civil settlement with Reva and Myron Stachniw, as well as funds received from the civil settlement with Ron Throgmartin.

## **B. Universal Herbs**

22. As discussed in previous Reports, the asset sale of Universal Herbs, LLC (“Universal Herbs”) to Titan Health LLC (“Titan”) was approved by the MED on January 25, 2021. The sale had previously been approved by the Court on August 8, 2020. At the closing, Titan remitted \$150,000 to the Estate. Titan had previously remitted \$600,000 to the Estate at the time of the execution of the asset purchase agreement (APA). Pursuant to the terms of the APA, the Receiver on behalf of Universal Herbs as seller is carrying back two secured promissory notes in the total amount of \$3.25 million (“Notes”).

23. From January 2021 through November 2021, Titan made payments on the Notes totaling approximately \$837,560. Titan failed to make any payments on the Notes since that time.

24. After failing to cure following the Receiver’s notice, Titan fell into Irrevocable Default under the APA and Notes and the Receiver accelerated all Titan’s obligations under the Notes.

25. Despite efforts at negotiation, the Receiver was forced to file suit against Titan in May 2022, in Denver District Court (Case No. 2022CV031451), asserting claims for breach of contract and asking the Court to return all the Universal Herbs assets to the Receivership Estate. These assets included two dispensaries (the “Park” and “Jason” locations) and one grow operation and all associated licenses.

26. The Court granted the Receiver’s has filed a motion for summary judgment in that case on December 6, 2022 and ordered all the Universal Herbs assets transferred back to the Estate. As of February 12, 2024, the Colorado’s marijuana enforcement division (“MED”) approved the transfer.

27. Currently, the Receiver continues to operate the grow operation and has done so since the Court appointed a receiver over the Titan assets.

28. As for the Park and Jason dispensary locations, neither are currently operational. The Receiver attempted to negotiate a sale of the Park licenses to a new operator, who indicated they would move the license to a new location; however, that operator could not come to an agreement with the landlord regarding the existing lease. Due to the buyers default, the Park licenses had to be surrendered by the Receiver.

29. The Receiver is currently in negotiations with a buyer for the Jason licenses, however, this buyer is in default of the Asset Purchase Agreement. The Receiver will continue to market the licenses related to the Jason location.

30. To date the Receiver has paid all post-receivership payroll and sales tax obligations, as well as operating expenses for the Universal Herbs operations. Unfortunately, due to the

depressed cannabis market, the Receiver has been forced to subsidize the losses from these operations.

31. In the fall of 2023, the Receiver successfully secured a ERTC from the IRS for the Titan Health operations. Of that entire tax credit, \$1,195,422.54 was allocated to the Titan/Universal Herbs assets.

### **C. Settlements**

32. As detailed on previous reports, the Receiver had previously entered into settlement agreements with 15 individuals, all of whom were investors in the Ponzi scheme and all of whom the Receiver's forensic analysis indicated had received fictitious profits from the Ponzi scheme.

33. The individuals with whom the Receiver has settled, as well as the corresponding settlement amounts, are listed below:

- a. Michael Schulkins, \$20,000
- b. Clint Blackburn, \$31,363
- c. Roger Stewart, \$37,852
- d. Robert Brody, \$47,500
- e. Randall Huls, \$65,000
- f. Jack Finch, \$384,812
- g. John Landry, \$287,737
- h. Ryan Jepsen/Dutch Charley: \$300,000
- i. Jirl Buck, \$65,000
- j. Ben Elliott, \$38,987
- k. Frank Carbone, \$81,866
- l. Jordan Betensky, \$80,000
- m. Darrell Raub, \$40,000
- n. Blake Spellings, \$29,645
- o. Ronald Throgmartin, at least \$307,291.66, plus 100% of all Diego Pellicer stock owned by Mr. Throgmartin.

34. In addition, the Receiver previously reached a settlement with "Bank A" for \$150,000.

35. In March of 2023 the Receiver reached a settlement with "Bank B" for \$995,000.

36. Altogether, the Receiver, though his counsel, has recovered \$1,967,073.66 in settlements for the Estate. Of this amount, approximately \$540,000 is slated to be paid to the Estate in the future due to the structure of the settlement agreements the Estate reached with investors, and the remainder has already been paid to the Estate. However, of the uncollected amount, nearly

\$300,000 is likely uncollectable as it was due and owing from Ron Throgmartin, who is now in prison.

37. The Receiver continues to identify and investigate additional potential litigation claims against various parties. At this time, the Receiver cannot provide any reasonable estimate of the value, if any, of these claims.

## V. Summary of the Estate's Liabilities

38. Since May of 2023, the Estate has incurred obligations to counsel and experts to assist in recovering the Estate's assets as follows:

Obligee	Amount of Obligation:	Basis of Obligation:
Betzer, Lausten Call & Schwartz, LLP	\$19,218.30	Receiver's fees Accounting Fees
Foster Graham Milstein & Calisher, LLP	\$47,367.92	Legal Fees

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 September, 2024, and every six (6) months thereafter.

DATED this 20<sup>th</sup> Day of March, 2024.

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 March 20, 2024, 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 March 20, 2024, 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