

CAUSE NO. D-1-GN-23-003968

G.E.T. MARKETING, LLC,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff</i>	§	
	§	
v.	§	459 <sup>th</sup> JUDICIAL DISTRICT
	§	
PSW REAL ESTATE, LLC,	§	
	§	
<i>Defendant</i>	§	TRAVIS COUNTY, TEXAS

**RECEIVER’S FIFTH STATUS REPORT**

The Stapleton Group, Inc., in its capacity as receiver (“*Receiver*”), files this *Fifth Status Report* for the month ended November 30, 2023, and would respectfully show this Court as follows:

**I. INTRODUCTION**

1. On July 31, 2023 (the “*Appointment Date*”), the Court entered the *Order Appointing Receiver* (the “*Receivership Order*”) pursuant to which the Court appointed the Receiver over the operations and property (collectively, the “*Receivership Estate*”) of the above-captioned defendant, PSW Real Estate, LLC and its affiliates listed on Exhibit A attached to the Receivership Order (collectively, “*PSW*”). The Order took effect on August 1, 2023.

2. On the Appointment Date, PSW was in the process of developing twenty-nine (29) residential properties across four states (the “*Developments*”), certain of which were owned outright by PSW and certain of which were owned through joint ventures with third-party entities (“*Joint Ventures*”). The Developments have complicated capital structures including but not limited to, multiple lenders, hundreds of individual and small family office investors and institutional investors. As of the Appointment Date, the Developments were in various stages of development or construction. A handful of Developments were in the beginning design phase,

while others included partially completed homes that were build-to-suit projects that were presold to future residents.

3. Prior to the Appointment Date, PSW also performed HOA management services through its purchase of certain companies and technologies: (i) PSW had purchased and was managing Fixed Maintenance, an HOA services company that provided plumbing, painting, electrical and other services to PSW and third-party customers; (ii) PSW paid an executive of and was investing in eProperty Care, a smart building technology; (iii) PSW purchased eProperty software to manage PSW controlled projects; and (iv) PSW invested significant cash in and was a minority owner of HomBase, a software company for property owners and managers, which was recently sold. The Receiver is assessing the value of PSW's minority interest in HomBase and potential ways to monetize that interest.

4. The appointment of the Receiver was vital and necessary. Prior to the appointment of the Receiver, PSW ran out of funds to pay debt service and employees and was unable to continue as a going concern. Construction of many Developments stopped, leaving employees, buyers, investors, lenders, and contractors in a lurch. Lenders were seeking to foreclose on properties, putting the investments of hundreds of individual and small family investors in jeopardy. Indeed, certain investors had already filed suit against PSW prior to the Appointment Date. As a result of all of the foregoing, creditors and investors in PSW were scrambling to raid any available asset of PSW, thus destroying any remaining equity in PSW's assets.

5. Since the Appointment Date the Receiver has taken control of PSW's finances, and stakeholders are actively engaging in discussions with the Receiver regarding the preservation of value of PSW's assets (now, the "***Receivership Assets***"). The Receiver has

entered into multiple Rule 11 agreements with lenders to forestall foreclosure. The Receiver is currently negotiating with developers and lenders to realize significant value in the Developments. The Receiver has made progress providing value for creditors, investors, and all other parties-in-interest by instituting an organized and orderly claims process, undertaking a forensic accounting, restarting home construction, and negotiating to sell, preserve and increase the value of the Receivership Assets.

6. The Receiver files this report to provide the Court with information on the status and expectations for the continuation of the receivership created by the Receivership Order (the “*Receivership*”).

7. During November 2023, the Receiver:

- supported investment banking team’s activities soliciting investors and buyers for PSW’s assets (detailed information below);
- resumed construction on fourteen homes in two projects and is scheduling home closings for existing homebuyers;
- funded construction costs to protect projects from the elements and trespassers, including replacing broken windows and door locks;
- continued gathering data for a forensic analysis of the Estate’s books and records;
- Inspected North Bluff, Lucy, Frank West, Ellie Mae, and Kramer projects.
- secured critical insurance coverage;
- held multiple meetings with secured lenders to update detailed plans for their specific collateral, in some cases including completing partially completed homes;
- held numerous meetings with subcontractors and PSW’s construction and development team to facilitate mobilizing to complete homes;
- reaffirmed master HOA authority on Willa and Frank projects
- identified title and escrow resources to support real estate sales, and to research and resolve title issues;

- following this Court’s approval, supported loan and other relevant documentation to support the Joint Venture now managing a 123-unit single-family and townhome community to be developed near 1907 Webberville Rd., Austin, TX (“**Project Charley**”). Prior to the Appointment Date, PSW received a Letter of Intent from Techo Funding, LLC (“**Techo**”), which proposed to provide \$64.2 million in construction and development financing and would pay off outstanding debt. PSW does not have funds to pay required loan fees and cannot guaranty the loan from Techo. Lynd Development Group (“**Lynd**”) provided a term sheet to develop Project Charley. Lynd and PSW will own membership interests in an entity managed through an operating agreement. Lynd will be the controlling member and developer. The Receivership Estate will receive a profits interest and other fees. The Receiver believes Project Charley will result in net sales of over \$102 million and result in a net cash receipts of \$16 to \$23 million to investors; and

8. The Receiver paid professional fees in the amount of \$582,074 during November 2023.

9. The Receiver believes that the Receivership should continue at this time because many valuable assets will be devalued without the protection of receivership and many innocent third parties will be harmed if the developments are the subject of litigation.

## II. SUMMARY OF RECEIVERSHIP OPERATIONS

### A. Marshaling and Preserving Assets

#### Identifying Assets

10. The Receiver has collected the books and records detailing all of PSW’s active and dormant projects and is in the process of reviewing and updating or creating the same. Because of the complex nature of the PSW enterprise, the Receiver is currently identifying and understanding the capital structure for all PSW projects. At this time, the Receiver believes that the Receivership Estate may hold an interest in 12 Developments,<sup>1</sup> and 16 Joint Ventures<sup>2</sup> across

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<sup>1</sup> The Developments include Willa, Ellie May West, Frank Commercial, Bruno, Lucy, Clementine, Frank West, Project Ruby, Charley, Ozzie, North Bluff, Kramer, and Nora.

four states. The majority of all PSW projects have senior secured debt, Class A, Class B, and Class C investors, and revenue sharing agreement (“*RSA*”) investors. The Receiver is calculating PSW’s interest in all projects, including the Developments and Joint Ventures.

11. Since the Appointment Date, the Receiver has worked to determine and identify all project senior secured noteholders, the amounts owed on related notes, the investors for each project, and the status of each project. The Receiver is in the process of evaluating and analyzing each PSW project to determine how best to maximize value for the Receivership Estate and PSW creditors. The Receiver has already entered into several agreements with senior secured noteholders to allow the foreclosure of specific receivership assets in the event the Receiver is unable to complete, or market and sell the asset to provide value to the Receivership Estate. Furthermore, the Receiver is in the process of marketing specific projects to determine whether an abandonment, a recapitalization or a sale of the project is in the best interest of the Receivership Estate. The Receiver is working to determine the most economical manner with which to return value to the Receivership Estate. This process includes identifying the best way to sell Receivership assets as well.

12. Upon taking over, the Receiver located and took possession of all known bank accounts of PSW. Attached hereto as Exhibit 1 is a summary of the liquid assets identified through November 30, 2023. During November 2023 the Receiver gathered support and governance documents required to turn over the HOA operating accounts to the HOAs that it will no longer manage. After further investigation, the Receiver determined that most of the HOA accounts were not asset of PSW and were not reported to this Court as such. The HOAs

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<sup>2</sup> The joint-venture projects and related JV Partners include George (Hearthstone), Ellie May East (IHP), Scout, Project Stanley, Project Archie, Sumie, Jolene, Frank North, Frank South, Longview, Polaris, Callie, Judy, Josephine, Thornton Flats, Thornton MU (All Partners Group).

have provided documentation confirming their HOA manager and contact information. The Receiver is transferring the HOA funds to the HOA managers as directed by the HOAs.

### Operations

13. PSW currently operates with a small staff necessary to complete construction in process, development and entitlement, support PSW's Joint Venture interests, perform accounting tasks, and sell completed homes. Prior to the appointment of the Receiver, PSW terminated or furloughed most employees based on an inability to meet payroll obligations. The Receiver terminated all employees as PSW had only minimal liquid assets available to meet payroll obligations.

14. On August 15, 2023, the Receiver filed its Notice of Rehiring of Certain Employees (the "*Notice of Rehiring*") to rehire approximately fifty (50) employees of PSW. The employees primarily work in the areas of development management, project management, accounting, marketing, and sales. The rehiring of these employees was for the purpose of identifying the assets of PSW and preserving the value of such assets. Approximately 30 employees remain as of the date of this report. Employees will be paid their ordinary wages from cash on hand and through receivership certificates. The Receiver is analyzing the cost to implement employee retention measures and initiate such a plan, which will be described in a motion to this Court.

15. In early September 2023, the Receiver tasked the rehired development and construction team with (i) assessing the condition of partially completed homes, (ii) determining the cost to complete those homes, and (iii) providing comprehensive analyses to the secured lenders of those properties describing how to maximize associated value. The Receiver and operation team has held numerous meetings and onsite tours with PSW's lenders. During

November 2023, two lenders agreed to resume funding and completion of homes. That commitment provided the support PSW needed to resume construction and as of the date of this report a Certificate of Occupancy has been granted for one home at 1190 Sarabeth Way, Austin, TX 78721, and a closing is scheduled for December 2023. As of the date of this report, 14 homes are under construction which is being funded by the secured lenders. The Receiver is discussing funding and completion with a third and fourth lender with a goal of resuming construction on their collateral in January 2024.

16. The Receiver contacted home buyers with existing purchase contracts during November 2023 to determine their continued interest in purchasing the homes under contract. With the comprehensive analyses described above, secured lender feedback, and the home buyer responses, the Receiver will determine the order in which the homes should be completed and sold, if at all. Of the 31 known open purchase contracts, 21 homebuyers responded. Very few homebuyers have indicated their desire to cancel their contracts. The Receiver will provide existing and newly identified homebuyers a court-approved contract that satisfies the requirements of a sale out of receivership and request this Court's approval for specific home sales. Proceeds from the sale of homes will be used to repay senior secured lenders and any excess proceeds will be held in the estate pending further Court order.

17. During November 2023, the Receiver maintained PSW's operational focus on four major functions: development, construction, supporting the investment banking process, and accounting. Accounting includes responding to regulatory agencies outside the normal course of business. Functions no longer performed by PSW in-house include most HOA management, architecture and design, sales and marketing, third-party maintenance and repairs, software development, and managing the Joint Ventures.

Employment of Professionals.

18. Immediately following the Receiver's appointment, it became necessary for the Receiver to employ Reed Smith LLP as its counsel to advise the Receiver in connection with identification and preservations of assets of the Receivership Estate, assist in negotiating with claims holders, prepare and file pleadings and appear in court, and organize the receivership proceeding. During October and November 2023, the Receiver determined that it would be most efficient to retain Dallas counsel McGuire, Craddock & Strother, P.C. who is familiar with the White Rock Trail properties (Project Goose Run) and negotiated payoffs for the liens recorded against those properties.

Litigation Claims.

19. At the time the Receiver was appointed, there were approximately 25 foreclosures and lawsuits pending against PSW or an affiliated entity. The Receiver has notified all known parties to pending litigation claims that all litigation is stayed pursuant to the Receivership Order.

20. The Receiver and Reed Smith have continued to stave off foreclosures by secured lenders by entering into a series of Rule 11 agreements and offering certain concessions to lenders. These efforts have prevented the Estate from losing valuable real estate to foreclosure, which would diminish the value of the Estate.

21. The Receiver requested that Moody's Bank fund construction costs to protect its collateral, which it declined to do. The Receiver and its advisors reassessed the feasibility of the Bruno project in light of increasing costs to complete, liens, penalties and interest arising prior to the inception of the receivership, and rising interest rates. Immediately prior to the December 5, 2023 foreclosure date the Receiver determined that the offers received for project Bruno through the investment banking process did not justify prevention of the foreclosure and the Receiver



notified that Moody's Bank accordingly. At the foreclosure sale, apparently no bids were received that exceeded the secured debt.

### Proposed Transactions

22. As noted above, at the time the Receiver was appointed PSW held an interest in at least 29 Developments at various stages of development. To preserve and maximize the value of the Developments, the Receiver intends to enter into a number of transactions for certain Developments. These transactions may include entering into new financing agreements to avoid foreclosure of properties or to initiate or continue the developments, replacing PSW as general contractor, replacing PSW as primary developer, and other transactions to avoid losses and maximize the value of assets.

23. During October 2023 the Receiver filed a sale motion for undeveloped lots in Dallas (Goose Run) and a motion to enter into a joint venture agreement with Lynd Development Group to develop Project Charley, a stalled project in Austin, Texas. Both motions were approved by this Court. As reported above, Goose Run sold in late November.

24. The Receiver is monitoring the progress of its Joint Venture partner Lynd Development related to the financing of project Charley. Lynd Development shared that they expect to close the funding and pay the secured lender in full by December 31, 2023 as approved by this Court.

### Financial Overview

25. The Receiver continues to maintain oversight and control of PSW's funds. Through October 2023, PSW issued Receiver's Certificates in the amount of \$2,534,978. The Receiver did not issue any Receiver's Certificates during November 2023. See Exhibit 3.

The following is a summary of cash balances in PSW bank accounts as of November 30, 2023:

<b>Accounts</b>	<b>DRAFT</b>
<b>CNB</b>	<b>\$ 3,344,773</b>
<b>JPM</b>	<b>249,809</b>
<b>Guaranty Bank</b>	<b>22,460</b>
<b>Misc. Banks</b>	<b>2,326</b>
<b>Total</b>	<b>\$ 3,819,368</b>
<b>Cash Restrictions</b>	
<b>Cash Restricted by Fixed Maintenance</b>	<b>(166,976)</b>
<b>Total</b>	<b>\$ 3,652,392</b>

Please see Exhibit 2 for detailed cash activity through November 30, 2023.

## **B. Regulatory matters**

26. The Receiver continued to provide information to seven regulatory or enforcement agency representatives during November 2023: (i) the Federal Bureau of Investigation, (ii) the Texas Comptroller of Public Accounts, (iii) the Texas State Securities Board, and (iv) the Internal Revenue Service, (v) the U.S. Securities and Exchange Commission, (vi) the Department of Labor; and (vii) State of Washington Labor and Industries. The Receiver is cooperating with governmental authorities in the course of its duties, including providing information per their requests with rolling production deadlines starting December 6, 2023. The Receiver is the subject of multiple subpoenas and requests for information from governmental authorities. The Receiver expects the costs of preparing responses will continue to be significant. The Receiver is working with its counsel to minimize the expenses of responding and

coordinating gathering information for the forensic accounting to the extent possible to avoid duplication of efforts.

### **C. Identifying and Organizing Claims**

27. The Receiver is in the process of identifying all creditors of each entity in receivership. This is an ongoing process that requires a sizeable portion of the Receiver's time. As of November 30, 2023, the Receiver had already received 826 completed claim forms. Additionally, the Receiver continues to work with the rehired PSW employees to identify all Receivership Assets.

28. The Court approved the *Motion to Establish Claims Procedures, To Approve Claim Form, and to Approve Injunction Notice* (the "**Claims Motion**") on October 5, 2023. Following the Court's approval, the Receiver implemented an online claims portal to allow claim holders the ability to provide their claims efficiently (<https://storybuiltreceivership.com/>). The Receiver will establish a claims bar date by separate motion and approval from the Court.

### **D. Liquidating Assets**

29. To maximize returns to creditors, the Receiver's intends to (i) market all monetizable Receivership Assets as efficiently as possible or (ii) identify capital partners to recapitalize PSW's portfolio as a whole, by region, or by project. As previously reported, this Court approved a motion to retain Onyx Asset Advisors and A&G Realty Advisors as PSW's investment banking team ("**Investment Banker**"). The engagement agreement includes a fee structure that provides a significant incentive for the Investment Banker to achieve the highest value for PSW's assets. The Investment Banker agreed to lend the receivership estate \$500,000 on favorable terms to support PSW and the receivership operations. The Investment Banker immediately began to market all Receivership Assets for sale in either a single sale or multiple

sales based on market conditions. As serious buyer(s) are identified, the Receiver will file a motion to sell the Receivership Assets. As of the date of this report the Investment Banker has, among other things: (i) created a master list of potential investors and buyers; (ii) drafted offering and marketing materials; (iii) presented a marketing plan to the Receiver; (iv) inspected Receivership Assets in Austin, Dallas, Seattle, and Denver; (v) maintained communication with Joint Venture partners consistent with investor requests and inquiries; (vi) continued to augment the PSW data room and respond to due diligence requests; and (vii) organized meetings with PSW personnel and investors to discuss the details of the Properties. Several offers are being considered for submission to this Court as of the date of this report. The Receiver continues to provide introductions to parties who express an interest in Receivership Assets. As of the date of this report, 1,212 parties have expressed interest and 592 NDAs have been returned.

30. Some buyers are excluding particular assets based on their specific strategy. In conjunction with the Investment Banker, the Receiver is analyzing the sale of Receivership Assets on an asset-by-asset basis in addition to the multiple-project offers that have been already received. In some cases, the Receiver may decide to complete homes or entire projects if that strategy is likely to generate more return for PSW stakeholders than an outright and immediate sale. If the Receiver determines that net recovery to the receivership is unlikely on a project, it will cooperate with the secured lender to maximize the overall value of the asset and may decide not to contest a foreclosure as described in Bruno previously in this report.

31. The Investment Banker and other advisors are reporting a softening of the real estate market in general and have identified factors impacting the value of the PSW portfolio specifically. Interest rates (and the corollary capitalization rates) are materially impacting the

income producing property values. The recent increase in interest rates is impacting homebuyers ability to purchase homes.

32. The Receiver is analyzing the benefits of retaining a commercial property manager to manage two mixed use projects, a residential real estate specialist to support the marketing and sale of homes, and a commercial real estate specialist to identify commercial tenants for certain projects. The Receivers will seek court approval for any such retentions.

#### **E. Financial Reporting.**

33. PSW's accounting team progressed on closing PSW's 2022 financial statements and supported forensic accounting, investment banking and claims processing initiatives. During November 2023 the PSW accounting accomplished the following:

- General
  - Added and replaced accounting personnel to help with HOA transition and update the general ledger for unrecorded activity
  - Reorganized internal accounting department
  - Yardi (property and community management) close out
  - Performed numerous Newstar account reconciliations, expect to close 14 entity financial statements before December 31, 2022 to support tax return preparation.
  - Researched and approved 265 accounts payable invoices, approximately 150 remaining to research, approve, and input.
  - Interviewed firms for tax work, obtaining three bids and will propose retention to this Court
  - Completed more than 125 monthly bank reconciliations through November, 2023 and closed unneeded accounts after capturing historic activity.
  - Continued Fixed Maintenance collection efforts, cleared outstanding sales tax reporting issues to allow state-related entities to pay amounts owed.
- Project/JV
  - Additional 7 entities books balanced, with a similar number pending investigation of remaining items
  - Completed and delivered July and August reporting for Thornton Apartment Lender
  - Progressed single family home construction and related loan draws

- Provided support for abandonment or bankruptcy analysis for three entities
- HOA/Community Management
  - Delivered closing cash balances and reporting to 7 additional communities
  - Continue to work to identify and verify board members and replacement managers to be able to deliver the remaining funds and control to the HOAs.
  - Requested missing financial statements and budgets for HOAs now under PSW Master HOA control.

34. In response to requests from potential buyers for historical financial statements, the Receiver requested a status report from the accounting and forensic teams for Willa, a mixed use project. The Receiver believes this Court and the PSW stakeholders will benefit from a description of this specific entities' status as an example of the challenges facing the accounting team and Receiver. The summary from the accounting team report is:

35. Transactions related to Willa Commercial have been recorded on multiple general ledgers all of which are unreliable. There is not a single, current, accurate set of historical financial records for Willa.

36. One of those general ledgers was apparently created in a failed attempt to properly account for the tenant in common (TIC) that owns 10% of Willa. The Receiver was told the TIC was created to accommodate three investors' need for a 1031 exchange and that those investors provided the down payment for a commercial loan for Willa.

37. It will be a manual process to create historical financial statements for Willa, requiring at a minimum a review of three general ledgers, reviewing bank records, confirming tenant activity, confirming intercompany balances between Willa and other PSW entities, recalculating equity accounts through the various and creating historic financial statements from project inception. This is a complex project requiring experienced accountants to perform the work.

- The complexity is driven by many factors
  - i. Ownership percentages were historically computed assuming that only SB Willa Commercial was the beneficiary of the loan proceeds and were probably incorrect.
  - ii. It appears that Ownership Association dues were never paid or accrued.
  - iii. No insurance or taxes have been recorded for Willa, but some have been paid and the accounting team will determine which entity paid for those and include in the intercompany accounts.
  - iv. Other obvious expenses have not been recorded consistently e.g. utilities but clearly have been paid and the accounting team will determine which entity paid for those and include in the intercompany accounts.
  - v. Tenant accounts receivable balances have not all been reconciled.
  - vi. Little to no documentation is available to review how the Willa transactions were approved, or to determine how to account for most of the material changes including the TIC transaction.

#### **F. Forensic Accounting.**

38. As initially described to this Court, the Receiver intends to continue its iterative approach to the forensic accounting project to drive efficiency and value to the stakeholders. The Receiver believes that there will be a point in time where additional forensic accounting efforts will not improve recovery to PSW's stakeholders.

39. The forensic accounting project overview is

- Confirm investor and creditor funding details
- Analyze distributions and debt payments
- Propose distribution plan for Court approval
- Identify and pursue claims

40. Based on its findings to date, the Receiver is focusing on confirming outside lending and investments by comparing documents and agreements provided by the outside parties (primarily unsecured lenders and investors) to the investment software records, tax returns, bank records, and the financial records such as they exist. This effort should provide reliable information about funds received by PSW from its stakeholders.

41. This process is underway. The claims portal provides a means for creditors and

investors to describe what is owed to them and to upload relevant documentation. The Receiver will perform reconciliations when claims submitted differ from PSW records. Detailed historical bank records will be provided to the Receiver during December according to the various banks the Receiver sent formal requests during November 2023.

42. Distributions and loan payments will also be analyzed using bank records, PSW financial records, the investment software records, the agreements governing those investments, and the PSW financial records.

43. The Forensic and accounting teams are collaborating to create basic balance sheets for each entity. On the projects that work has started a pattern is emerging. Funds received by lenders and investors were deposited randomly. Exclusive bank accounts were not opened for some projects, and in some cases not until after investor funds had been received. Where no project bank account existed, funds were sometimes deposited in the PSW's main operating account. Frequently, funds needed for project expenses or other costs were paid from the main operating account (or other accounts with funds) and the transaction was recorded simply as an intercompany activity. The Receiver has been told that accounting and other critical departments were not privy to decisions regarding cash transfers or payments.

44. The Receiver expects that the result of these poor management practices will result in material unexplained intercompany balances. Determining that the entity to/from intercompany balances match is moderately complicated but achievable fairly quickly. The greater issue is the poor backup and documentation, the support for approvals and descriptions of the amounts in question. To create financial statements with the level of detail required to accurately account for the intercompany activity detail is unlikely to drive additional recovery to stakeholders commensurate with the expense, and the Receiver may propose an alternative



solution to the Court for approval.

45. The Receiver expects to file claims against principals and has documented a number of instances of egregious mismanagement which caused PSW serious financial damage and ongoing liabilities.

46. The Receiver provides the following estimates by phase with the caveat that the full extent of the PSW financial and legal issues are still being discovered and these estimates may prove to be too low. The Receiver estimates that \$200,000 to \$500,000 will be needed for forensic accounting alone will be adequate to support a rationale distribution plan and pursue viable claims for the stakeholders. This estimate does not include legal fees.

47. The Receiver estimates that \$100,000 to \$200,000 will be needed for an initial summary by investor and lender, plus specific examples to support a unitary enterprise approach to present to this Court. This process is underway.

48. The Receiver estimates that \$50,000 to \$150,000 will be needed for the work described above plus analyses of distributions and debt payments, funds used for Principals' benefit, and entity specific issues. The receiver expects to create a distribution plan in this phase.

49. The Receiver estimates that \$50,000 to \$150,000 will be needed depending on the complexity and number of claims to document which may require additional in-depth analyses on specific projects or material transactions.

For perspective and comparison we present the following based on our experience in similar projects.

50. The Receiver estimates that \$1,500,000- \$2,000,000 will be needed to provide a comprehensive analysis to investors, following review of detailed bank records, emails, financial

statements, reports to JV partners and investors to track and trace all sources and uses of funds by projects.

#### **G. Claims Resolution and Distributions**

51. After liquidating the Receivership Assets, the Receiver will file a motion to establish a distribution plan with the Court. The following discussion relates to the assets remaining after payments to secured lenders and to satisfy administrative expenses of the receivership estate.

52. In most instances, the Receiver has observed that the typical accounting practices for segregating and accounting for transactions were not followed by PSW. Funds invested for specific projects may have been spent in relation to different projects, to pay PSW fees in excess of agreed upon amounts, or for other expenses as described above. Investments intended to support specific real estate projects may have been invested in extraneous initiatives or simply spent on corporate overhead, including payroll not related to supporting the specific real estate projects. As a result, some PSW entities benefited disproportionately and some suffered disproportionately in relation to each respective entity's economic performance. PSW's comingling of assets and liabilities is a significant focus of the Receiver's forensic accounting analysis, which is ongoing.

53. Distributions do not appear to have been made equitably or in a financially responsible manner. Capital transactions involving various classes of stock may not prove to have economic substance or be supported by the appropriate corporate documentation.

54. As a result, the Receiver does not intend to distribute proceeds from the sale of Receivership Assets upon sale, except for payment of specifically related secured debt obligations and expenses of the administration of the Receivership. Further distributions will be

made upon completion of the forensic accounting and a motion presented to the Court for approval.

55. The Receiver will not distribute any Receivership Assets without an order from the Court.

Respectfully submitted,

*/s/ Mike Bergthold*

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Mike Bergthold  
Stapleton Group

**CERTIFICATE OF SERVICE**

I hereby certify that, on December 18, 2023, a true and correct copy of the foregoing document was served on all counsel of record pursuant to the Texas Rules of Civil Procedure via the Court's electronic filing system.

*/s/ Bradley J. Purcell*

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Bradley J. Purcell

# EXHIBIT 1

Bank Cash Balances Exhibit		Aug. 1st Balance	Sept. 30th Balance	Oct. 31st Balance	Nov 30th Balance
<b>PSW Account Balances</b>					
<b>City National Bank</b>					
	CNB Receiver's Account	-	35,307	368,426	3,452,719
	CNB Fixed Maintenance Account	-	207,858	92,057	92,057
	<b>City National Bank Total Balance</b>	<u>\$ -</u>	<u>\$ 243,165</u>	<u>\$ 460,482</u>	<u>\$ 3,544,775</u>
<b>JP Morgan</b>					
	*9215 - Fixed Maintenance and Repair, LLC Account	12,373	153,297	181,159	199,485
	*6559 - PSW Homes LLC Account	18,675	124.06	12,755	20,416
	*6021 - PSW Real Estate, LLC Account	(22,031)	(3,879)	(4,982)	-
	*2537 - PSW Real Estate, LLC Account	-	-	-	-
	*2750 - SB 4190 West Colfax LLC Account	732	583	434	284
	*0231 - SB-Bruno, LLC, LLC Account	1,421	1,283	1,145	1,007
	*5158 - 6556 Ravenna, LLC Account	1,200	(139)	118,882	498
	*5315 - SB JV Property Mgmt, LLC Account	118	(90)	(192)	-
	*8776 - SB-Kramer, LLC Account	4,180	4,081	3,981	3,882
	*8727 - SB-Ozzie, LLC Account	-	(105)	(211)	-
	*8632 - SB SF Holdings, LLC Account	2,807	(101)	(217)	-
	*8750 - SB Dayton, LLC Account	165	60	(45)	-
	*8569 - Fixed Maintenance and Repair, LLC Account	2,760	24,169	24,641	24,231
	<b>JP Morgan Total Balance</b>	<u>\$ 22,400</u>	<u>\$ 179,282</u>	<u>\$ 337,351</u>	<u>\$ 249,803</u>
<b>Guaranty Bank</b>					
	*2345 - PSW Real Estate, LLC *2345	-	-	-	-
	*6577 - PSW Real Estate, LLC *6577	(10)	-	-	-
	*9249 - Willa Comm SBC, LLC *9249	14,573	19,725	37,406	22,460
	<b>Guaranty Bank Total Balance</b>	<u>\$ 14,563</u>	<u>\$ 19,725</u>	<u>\$ 37,406</u>	<u>\$ 22,460</u>
<b>ABC Bank</b>					
	*4588 - PSW White Rock Trail, LLC Account	160	-	-	-
	<b>ABC Bank Total Balance</b>	<u>\$ 160</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Dallas Capital</b>					
	*9129 - SB DT Plano	-	-	-	507
	<b>Frost Bank Total Balance</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 507</u>
<b>Frost Bank</b>					
	*1121 - PSW Luma LLC Account	-	-	-	-
	<b>Frost Bank Total Balance</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Moody Bank</b>					
	*7674 - SB-Bruno, LLC, LLC Account	1,855	1,839	1,839	1,819
	<b>Moody Bank Total Balance</b>	<u>\$ 1,855</u>	<u>\$ 1,839</u>	<u>\$ 1,839</u>	<u>\$ 1,819</u>
<b>Prosperity Bank</b>					
	*3420 - PSW Real Estate, LLC Account	-	-	-	-
	<b>Prosperity Bank Total Balance</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Susser Bank</b>					
	*2854 - PSW Real Estate LLC Account	-	-	-	-
	<b>Susser Bank Total Balance</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Veritex</b>					
	*7710 - PSW Urban Homes, LLC Account	493	-	-	-
	<b>Veritex Total Balance</b>	<u>\$ 493</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
	<b>PSW Account Total Balances</b>	<u><b>\$ 39,471</b></u>	<u><b>\$ 444,011</b></u>	<u><b>\$ 837,078</b></u>	<u><b>\$ 3,819,364</b></u>

## EXHIBIT 2

PSW Real Estate LLC dba StoryBuilt				DRAFT		
Cash Activity from August 1 to November 30, 2023						
				Aug 1 to Oct 31, 2023	Nov 1 to Nov 30, 2023	Total
<b>Total PSW Bank Account Balances</b>				<u>\$ 39,471</u>		<u>\$ 39,471</u>
Cash Receipts:						
	Borrowed via Receivers Certificates		1,069,970		-	1,069,970
	Loan from Investment Bank		500,000		-	500,000
	Accounts Receivable Collections		790,415		18,858	809,273
	Reimbursements & Other		179,441	[1]	7,185	186,626
	Sale Proceeds		119,173	[2]	3,825,989	3,945,162
	Rent Receipts		226,047		41,348	267,395
			<u>Total Cash Receipts</u>	<u>\$ 2,885,046</u>	<u>\$ 3,893,379</u>	<u>\$ 6,778,426</u>
Cash Payments:						
	Payroll & Benefits, net		(925,267)		(147,753)	(1,073,020)
	Professional fees		(557,001)		(582,074)	(1,139,074)
	Insurance policies		(266,958)		(69,931)	(336,889)
	Monthly Debt Service - Willa		(165,249)		(56,293)	(221,542)
	Banking Fees		(10,671)		(3,650)	(14,321)
	Software/Technology		(75,755)		(40,656)	(116,411)
	Misc Operating Expenses		(56,998)		(5,452)	(62,450)
	Property Maintenance & Taxes		(29,541)		(5,283)	(34,824)
			<u>Total Cash Payments</u>	<u>\$ (2,087,439)</u>	<u>\$ (911,093)</u>	<u>\$ (2,998,532)</u>
<b>Total PSW Bank Account Ending Balances</b>				<u>\$ 837,078</u>	<u>\$ 3,819,364</u>	<u>\$ 3,819,364</u>
	Cash Restricted by Fixed Maintenance		\$ -		\$ -	\$ (166,976) [5]
<b>Total Available PSW Bank Account Ending Balances</b>				<u>\$ 837,078</u> [3]	<u>\$ 3,819,364</u>	<u>\$ 3,652,388</u> [6]

[1] Includes misc refunds, reimbursements, escrow refund being researched for which entity it is due to

[2] Sale proceeds from the delivery of two apartments in Project Nora sold prior to the Receivership

[3] Three accounts were inadvertently included in the initial inventory and should not be considered assets of the receivership estate. Two of those accounts were labeled "PSW West Dallas Urban Village"

[4] Sale proceeds from the closing of the Goose Run transaction

[5] The Receiver was granted access to \$600,000 of Fixed Maintenance funds. Of the total \$315,772 Fixed cash included here, \$148,796 is available to use and \$166,976 is restricted.

[6] Reference Bank Cash Balance Exhibit for a breakdown of balances by account

# EXHIBIT 3



<b>StoryBuilt Receiver Certificates</b>			
<b>Investor</b>	<b>Date Funded</b>	<b>Amount Funded</b>	<b>Notes</b>
Trey Cook	08/01/2023	\$1,380,008	Amount used to hold off foreclosure of several Balance Sheet Assets on 7/5/2023. \$380,000 was for Health Insurance premium paid July 31, 2023. Certificate Issued
Forty Six & 2 Design LLC	08/01/2023	10,000	Not shown in the Receiver's account. Amount was used before the account was setup. Certificate Issued.
Ben Rutkowski	08/01/2023	10,000	Not shown in the Receiver's account. Amount was used before the account was setup. Certificate Issued.
Anthony Siela	08/01/2023	35,000	Not shown in the Receiver's account. Amount was used before the account was setup. Certificate Issued.
Jerald Ryan Diepenbrock	08/01/2023	15,453	Paid directly to health insurance provider. Certificate being reissued under correct name.
Shepler Brothers & Company,	08/01/2023	15,000	Paid directly to health insurance provider, Certificate issued
Jerald Diepenbrock	08/09/2023	25,000	Deposit shown in the Receiver's account, Certificate issued.
Anthony Siela	08/11/2023	65,000	Deposit shown in the Receiver's account, Certificate issued.
Trey Cook	08/14/2023	50,000	Deposit shown in the Receiver's account, Certificate issued.
Gerald Byrd	08/14/2023	200,000	Deposit shown in the Receiver's account, Certificate issued.
Shirley Diepenbrock	08/14/2023	25,000	Deposit shown in the Receiver's account, Certificate issued.
Robert D. Kingsland	08/29/2023	25,000	Deposit shown in the Receiver's account, Certificate issued.
Cindy Quarte and Dave Quirart	09/01/2023	50,000	Deposit shown in the Receiver's account, Certificate issued.
Kim McAtee and Jamie McAtee	09/01/2023	30,000	Deposit shown in the Receiver's account, Certificate issued.
Guillermo Sesma	09/12/2023	249,970	Deposit shown in the Receiver's account, Certificate issued.
Emily E. Cruthirds	09/12/2023	50,000	Deposit shown in the Receiver's account, Certificate issued.
Garrett M. Cook	09/13/2023	50,000	Deposit shown in the Receiver's account, Certificate issued.
Travis D. Cook	09/15/2023	25,000	Deposit shown in the Receiver's account, Certificate issued.
Jerry Todd Cook	09/15/2023	50,000	Deposit shown in the Receiver's account, Certificate issued.
Travis Cook	09/20/2023	25,000	Deposit shown in the Receiver's account, Certificate issued.
Guillermo Sesma	09/25/2023	50,000	Deposit shown in the Receiver's account, Certificate issued.
Daniel Schroeder	10/02/2023	50,000	Deposit shown in the Receiver's account, Certificate issued.
Phillip Hastings	10/20/2023	25,000	Deposit shown in the Receiver's account, Certificate in process.
Phillip Hastings	10/23/2023	25,000	Deposit shown in the Receiver's account, Certificate in process.
		\$2,535,431	

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Amy Hinson on behalf of Bradley Purcell  
Bar No. 24063965  
ahinson@reedsmith.com  
Envelope ID: 82651844  
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Filing Description: RECEIVER'S FIFTH STATUS REPORT  
Status as of 12/18/2023 9:31 AM CST

Associated Case Party: G.E.T. MARKETING, LLC

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Todd Headden		theaden@haywardfirm.com	12/18/2023 9:10:42 AM	SENT
Trey Cook		tcook@akuratedynamics.com	12/18/2023 9:10:42 AM	SENT
Siarra Villarreal		svillarreal@haywardfirm.com	12/18/2023 9:10:42 AM	SENT
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Associated Case Party: PSW REAL ESTATE, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Elin Isenhower		eisenhower@winstead.com	12/18/2023 9:10:42 AM	SENT
Crystal Sanchez		csanchez@winstead.com	12/18/2023 9:10:42 AM	SENT
Emil Calhoun		ecalhoun@winstead.com	12/18/2023 9:10:42 AM	SENT
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Josh Fairchild		josh.fairchild@storybuilt.com	12/18/2023 9:10:42 AM	SENT
Alex Allemann		aallemann@winstead.com	12/18/2023 9:10:42 AM	SENT

Associated Case Party: STAPLETON GROUP, INC.

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Audrey Nefkens		ANefkens@stapletoninc.com	12/18/2023 9:10:42 AM	SENT
Taylre Janak		TJanak@reedsmith.com	12/18/2023 9:10:42 AM	SENT

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Associated Case Party: STAPLETON GROUP, INC.

Taylre Janak		TJanak@reedsmith.com	12/18/2023 9:10:42 AM	SENT
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Associated Case Party: CrossFirst Bank

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Associated Case Party: First United Bank & Trust Co.

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Associated Case Party: AMERICAN BANK OF COMMERCE

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William RileyNix, III		trip.nix@hklaw.com	12/18/2023 9:10:42 AM	SENT

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Associated Case Party: Partners Group StoryBuilt Holdings, LLC

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Case Contacts

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### Case Contacts

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Carolyn Perkins		cperkins@neliganlaw.com	12/18/2023 9:10:42 AM	SENT
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Associated Case Party: DALLAS CAPITAL BANK, N.A.

Name	BarNumber	Email	TimestampSubmitted	Status
Brian Vanderwoude		vanderwoude.brian@dorsey.com	12/18/2023 9:10:42 AM	SENT

Associated Case Party: Edward Russ

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Name	BarNumber	Email	TimestampSubmitted	Status
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Associated Case Party: Frank Eirinberg

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Associated Case Party: Rebecca Vaughn

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Oliver Thoma		oliver.thoma@westwebblaw.com	12/18/2023 9:10:42 AM	SENT
Michael Gentry		mike.gentry@westwebblaw.com	12/18/2023 9:10:42 AM	SENT
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Associated Case Party: UT Company, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
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