

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

Plaintiff,

v.

Case No.: 14-001695-CI

TRI-MED CORPORATION,
TRI-MED ASSOCIATES INC., JEREMY
ANDERSON, ANTHONY N. NICHOLAS,
III, ERIC AGER, IRWIN AGER, TERESA
SIMMONS BORDINAT a/k/a TERESA
SIMMONS, and ANTHONY N.
NICHOLAS, JR.,

Defendants.

v.

TMFL HOLDINGS, LLC

Relief Defendant.

_____ /

**THE RECEIVER'S VERIFIED TWENTY-SIXTH INTERIM REPORT
AND INCORPORATED TWENTY-SIXTH REPORT OF INVENTORY**

Receivership Information and Activity from March 4, 2022, through June 28, 2022.

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INTRODUCTION

Burton W. Wiand, the Court-appointed Receiver for Tri-Med Corporation (“**Tri-Med**”), Tri-Med Associates Inc. (“**TMA**”), TMFL Holdings, LLC (“**TMFL**”), Interventional Pain Center, PLLC (“**IPC**”), Rejuva Medical and Wellness Center, L.L.C., and Rejuva Medical Center, L.L.C. (the two Rejuva entities are collectively referred to as “**Rejuva**”), Tri-Med Management, Inc. (“**TMM**”) n/k/a JA Management LLC (“**JA Management**”), and JRAM, LLC (“**JRAM**”) (Tri-Med, TMA, TMFL, IPC, Rejuva, TMM, JA Management, and JRAM are collectively referred to as “**Receivership Entities**”), hereby files this Verified Twenty-sixth Interim Report and Incorporated Twenty-sixth Report of Inventory (“**Twenty-sixth Interim Report**”) to inform the Court, the investors, and others interested in the Receivership Entities of activities to date, as well as the proposed course of action.¹

The Receiver was appointed on March 5, 2014. By March 7, 2014, the Receiver established an informational website, www.trimedreceivership.com. The Receiver has updated this website periodically and continues to update it with the Receiver’s most significant actions to date, important court filings in this proceeding, and other news that might be of interest to the public. This Twenty-sixth Interim Report, as well as all previous and subsequent reports, will be posted on the Receiver’s website.

Overview of Significant Activities During this Reporting Period

During the time covered by this Twenty-sixth Interim Report, the Receiver and professionals he has retained have engaged in the following significant activities:

¹ This Twenty-sixth Interim Report is intended to report on information and activity from March 4, 2022 through June 28, 2022. As directed by the Court, the Receiver will submit his next Interim Report to the Court 120 days from the date of this Report.

- Obtained the Court’s approval of a motion for the turnover of **\$73,350.00** seized from the Minnesota residence of Defendant Jeremy Anderson by Minnesota law enforcement in connection with a related criminal investigation of Defendant Anderson;
- Obtained the Court’s approval of a settlement agreement to resolve litigation with Charles Corces and Charles Corces, P.A. for payment of **\$6,000.00** to the Receiver;
- Made efforts to obtain any remaining funds from the sale of forfeited property previously owned by Eric Ager seized by the U.S. Attorney’s office;
- Continued to engage in efforts to collect funds for remaining accounts receivable;
- Recovered the total amount of approximately **\$1,805,943.69** in payment of accounts receivable since the appointment of the Receiver through June 28, 2022;
- Recovered the total amount of **\$4,756,021.48** in litigation settlement payments since the appointment of the Receiver through June 28, 2022; and
- Maintained an informational website for investors and other interested parties and continued to field calls and correspondence from investors seeking information regarding the Receivership and claims process.

The above activities are discussed in more detail in the pertinent sections of this Twenty-sixth Interim Report.

BACKGROUND

I. Procedure and Chronology.

On March 4, 2014, the Florida Office of Financial Regulation (“**OFR**”) filed a complaint in the Circuit Court for the Sixth Judicial Circuit in Pinellas County against Tri-Med, TMA, Jeremy Anderson, Anthony N. Nicholas, III, Eric Ager, Irwin Ager, and Teresa Simmons Bordinat, a/k/a Teresa Simmons (the individuals listed here and Anthony N. Nicholas, Jr. are collectively referred to as “**Defendants**”) charging them with violations of the Florida securities laws and seeking to enjoin their violations of these laws in connection with a fraudulent scheme to offer and sell unregistered securities. The OFR subsequently amended the complaint to include Anthony N. Nicholas, Jr. as a defendant and TMFL as a relief defendant. The OFR alleged that

the Defendants used the Receivership Entities to defraud approximately 232 investors from at least October 2011 forward by using false claims and purported above market rates of return to lure investors into purportedly investing in medical-practice-related accounts receivable subject to Letters of Protection (“**LOPs**”). The OFR also alleged that the Defendants raised more than \$13 million from these investors and misappropriated at least \$6.2 million of those funds.

On March 5, 2014, the Honorable Anthony Rondolino issued an order appointing Burton W. Wiand as Receiver over Tri-Med and TMA (the “**Order**” or “**Order Appointing Receiver**”). Among other things, this Order enjoined Tri-Med, TMA, and other Defendants from further violations of the Florida securities laws, froze their assets, and required an accounting of all investor funds and other assets. After his appointment, the Receiver sought and successfully obtained the expansion of the Receivership to include: TMFL, IPC, Rejuva, TMM, JA Management, and JRAM. The expansion of the Receivership to include these additional entities is discussed in prior Interim Reports.

Defendants Irwin Ager, Eric Ager, and Anthony Nicholas, Jr. entered into separate plea agreements with the U.S. Attorney wherein they each pleaded guilty to conspiracy to commit mail fraud and wire fraud for their participation in this scheme. In pleading guilty, these defendants admitted that they and co-conspirators perpetrated the fraudulent investment scheme alleged in this case. The Agers each were sentenced to two years in prison and two years of supervised release after their incarceration. Anthony Nicholas, Jr. was sentenced to 135 months in federal prison with two years of supervised release. The court also ordered these defendants to pay restitution of \$7,614,925.91 and directed that restitution payments be made to the Receiver. Since the appointment of the Receiver through June 28, 2022, the total amount the Receiver has obtained from restitution payments is approximately **\$9,890.62**.

Jeremy Anderson was arrested on March 7, 2019. On February 26, 2021, he appeared before a magistrate judge and pled guilty to the crimes charged against him in connection with this fraudulent scheme. On May 13, 2021, the court sentenced him to 151 months in prison with three years of supervised release. The court also entered an order of forfeiture against him in the amount of \$10,347,226. On May 25, 2021, Defendant Anderson filed a notice of appeal as to the judgment and conviction. This appeal is still pending.

Anderson also was charged by the Minnesota Commerce Fraud Bureau with seven counts of identity theft for his scheme to sell forged medical accounts receivables. In connection with that investigation, Minnesota law enforcement seized **\$73,350** in cash from Defendant Anderson and Holly Kwon's Minnesota residence, which they retained in evidence pending the outcome of that case. Anderson pled guilty to the Minnesota charges. The Receiver filed a motion for turnover of those funds on January 6, 2022, which the Court granted on May 31, 2022. The Receiver anticipates receipt of those funds before the next Interim Report.

In October 2020, the Receiver informed the U.S. Attorney's office that Eric Ager was attempting to sell property in Clearwater, Florida. The U.S. Attorney secured a final judgment of forfeiture from the court which condemned the property and forfeited it to the United States for disposal. The court further ordered that if there are any proceeds remaining after paying: (1) the government's expenses for seizure, maintenance, and disposal of the property; (2) the claims of the property mortgagee; and (3) any property taxes, the Receiver may collect those remaining proceeds through the restitution process. In January 2022, the government sold the property for \$381,100. The mortgage on the property is estimated at roughly \$150,000. On May 12, 2022, the U.S. Attorney's office sent a request to the appropriate section in Washington D.C. to turn the

forfeited funds over to the Receiver. The Receiver is awaiting the section's decision, which could take months.

II. Actions Taken By The Receiver And Inventory Of Property.

Since his appointment on March 5, 2014, the Receiver has taken a number of steps to fulfill his mandates under the Order Appointing Receiver. For more information regarding actions taken by the Receiver and a detailed overview of the Receiver's findings, please refer to prior Interim Reports.

A. Taking Possession of Receivership Property.

1. Physical Premises and Receivership Books and Records.

The Receiver secured an office which was used by Tri-Med and removed physical property that was at the premises. Through these and other efforts, the Receiver obtained books and records, office furniture, and computers and computer equipment. The Receiver sold most of the Receivership Entities' valuable assets and is now left with personal property and other items of minimal or no value.

2. Securing Receivership Funds.

The Receiver successfully froze \$4,907,005.15 at various financial institutions. The Receiver opened three accounts for the Receivership at Valley National Bank: a money market account; a non-interest bearing checking account; and a checking account for the collection of funds for LOPs related to Preferred Physicians Funding. See Section II.B.4 below for a discussion of these LOPs. The Receiver deposited \$4,884,998.67 of frozen funds into these accounts.² Approximately \$4,500 remains frozen in accounts held in the names of individual defendants and a related entity. The Receiver will continue efforts to obtain these funds.

² This amount includes funds which were frozen and subsequently recovered in connection with the expansion entities discussed in prior Interim Reports.

During the time covered by this Report, the Receivership earned \$397.95 in interest on the Receivership accounts and, as of June 28, 2022, the total balance of these accounts is \$776,340.79. Attached as **Exhibit A** to this Interim Report is a cash accounting report showing the amount of money on hand from March 4, 2022 less expenses plus revenues through June 28, 2022. A cash accounting report showing the amount of money on hand less expenses plus revenues from the inception of the Receivership through June 28, 2022 is attached as **Exhibit B**. These cash accounting reports do not reflect non-cash or cash-equivalent assets. Thus, the value of all property, including medical accounts receivable discussed below, is not included in the accounting reports.

3. Medical Accounts Receivable.

As discussed in prior Interim Reports, the Receiver has undertaken a painstaking review of the medical accounts receivable to determine which remain outstanding and to try to collect funds that are owed or owing to the Receivership for any remaining legitimate receivables. Despite all of the Receiver's efforts, his experience with collection efforts to date has been disappointing. There is little likelihood that investor claimants will recover the full allowed amount of their claims. Since the appointment of the Receiver through June 28, 2022, the Receiver has recovered the total amount of approximately \$1,805,943.69 in payment of accounts receivable.³ Because of a number of variables, including the underlying validity of purported

³ A significant amount of receivables were purchased from Florida Surgery Consultants ("FSC"). Tri-Med entered into an agreement with FSC prior to the Receivership regarding payment of those accounts receivable. Pursuant to this agreement, Tri-Med is to receive only either 50% or 55% of the face value of the receivable depending on the type of service provided. On June 18, 2019, an attorney for FSC sent a letter to the Receiver indicating that while there is approximately \$592,000 outstanding accounts receivable, \$243,000 of this amount may not be collectible and regardless, the Receiver has been paid in full under the terms of the agreement with FSC. The Receiver is continuing to evaluate this situation and will proceed appropriately.

receivables, the Receiver cannot predict the amount of eventual recoveries. For more information regarding the medical accounts receivable, please refer to the Receiver's Fourteenth Interim Report and earlier Interim Reports.

The receivables on the books of Tri-Med are of questionable value. Many were fraudulent, many were duplicates, and all were in part dependent on the recovery of funds from insurance claims. Efforts to gain responses from law firms who may be responsible for these receivables have met limited success. The Receiver's team is evaluating these responses and expects to apply to the Court soon for assistance in obtaining definitive answers from the law firms. Failing that, it is anticipated that these receivables will be sold to debt collectors for pennies on the dollar or abandoned.

B. Litigation.

During the time covered by this Interim Report, the Receiver has (1) continued collection efforts on a judgment in the amount of \$139,599.98 against purported sales agent A.J. Brent; (2) continued collection efforts on a consent judgment in the amount of \$224,500.00 against Holly Kwon; and (3) obtained Court approval on May 31, 2022 of an agreement to settle litigation against Charles Corces, P.A., and Charles Corces for payment of \$6,000.00 to the Receiver. For information regarding these litigation matters and the Receiver's other litigation efforts, please refer to the Receiver's Twenty-fourth Interim Report and prior Interim Reports.

C. Bankruptcy Proceeding Involving Clinics Owned by Dr. Groteke and/or Dr. Pettersen.

One of the primary sources for the accounts receivable purchased by Tri-Med was clinics owned by Dr. Groteke and/or Dr. Pettersen. Dr. Groteke offered medical services through three different entities: Visum Management, LLC, Spine Injury Physicians, LLC, and Wellness Worx Center, PLLC (collectively referred to as the "**Debtors**"). In January 2015, all three of these

entities filed for protection under Chapter 11 of the United States Bankruptcy Code. The Receiver filed claims in the bankruptcy proceedings to protect the Receivership's interests.

The Receivership Entities purchased accounts receivable from the Debtors in the approximate face value amount of \$4 million (see prior Interim Reports for a discussion of why these receivables will generate significantly less money for the Receivership estate). The Debtors also sold accounts receivable to other companies, including Preferred Physicians Funding ("PPF"). PPF purchased approximately \$2.3 million in receivables from the Debtors. A portion of these receivables were double sold to both Tri-Med and PPF. The receivables PPF purchased are subject to the Receivership Entities' security interest on a loan to the debtors in the amount of \$513,194.13.

On January 20, 2015, the Court approved a settlement agreement between the Debtors, the Receiver, and PPF. Pursuant to the settlement agreement, the Receiver and PPF agreed that 100% of the amount collected on receivables Tri-Med owns will be paid to the Receiver. The Receiver and PPF also agreed that 50% of the amount collected on receivables held by PPF will be paid to the Receiver until the Receiver has received a total amount of \$513,000. Once the Receiver has collected the \$513,000, PPF will be entitled to retain 100% of its remaining receivables. With respect to any double sold receivables, the Receiver and PPF agreed to evenly split any collections. On April 20, 2021, the Receiver sent PPF a check for \$9,844.19, which represented 50% of the funds collected to date in connection with PPF purchased LOPs.

D. Claims Process

On December 17, 2015, the Court granted the Receiver's Motion to (1) Approve Determinations And Priority of Claims, (2) Pool Receivership Assets and Liabilities, (3) Approve Plan of Distribution and a First Interim Distribution and (4) Establish Objection Procedure. The Court approved the Receiver's request to make a first interim distribution of 26%

of the Allowed Amounts of Claimants with Class 1 claims on a *pro rata* basis. On January 22, 2016, the Receiver mailed 281 checks totaling approximately \$3,914,193.38 to Claimants holding claims which were entitled to receive a first interim distribution. All first interim distribution checks were negotiated.

On December 15, 2017, the Court granted the Receiver's Motion to Approve (1) Second Interim Distribution; (2) Determination of Late-Filed Claim; and (3) Disbursal of Funds. The motion sought the approval of a second interim distribution of approximately \$3,693,634.00 on a *pro rata* basis, representing an additional recovery of approximately 24% of allowed amounts of claims receiving a distribution at that time, bringing the total recovery for these Claimants to approximately 50% of their losses. As of June 28, 2022, four checks in the total amount of \$13,662.48 remain outstanding from the second interim distribution. For more information regarding the claims process, please refer to prior Interim Reports.

III. The Next 120 Days.

The Receiver will proceed with collection efforts. He will continue to thoroughly consider and review any settlement offers and engage in settlement negotiations. The Receiver will make every effort to reach compromises that are in the best interests of the Receivership Entities and the investors.

The Receiver will continue to use his best business judgment and make every reasonable effort to maximize the value he receives from the accounts receivable that were purchased and remain outstanding.

The Receiver will continue to attempt to locate additional funds and other assets and may institute additional proceedings to recover assets on behalf of the Receivership Entities.

CONCLUSION

As discussed in Section II.D. above, the Receiver has conducted two interim distributions which provided Claimants entitled to participate in these distributions a total recovery of approximately 50% of their losses. With the second interim distribution the Receiver believes that the majority of the funds he will be able to recover in this Receivership has been distributed. The Receiver will continue to try to collect and maximize the amount he can recover from the accounts receivable. The Receiver also will continue to pursue ongoing collection efforts, which he is hopeful will bring in additional funds; however, he anticipates that any future distribution will be modest.

Creditors and investors in the Receivership Entities are encouraged to periodically check the informational website, www.trimedreceivership.com, for information concerning this Receivership. To minimize expenses, creditors and investors are encouraged to consult the Receiver's website before contacting the Receiver or his counsel.

Dated this 30th day of June, 2022.

Respectfully submitted,

/s/ Lawrence J. Dougherty

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 30, 2022, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court by using the Florida Courts E-Filing Portal and via U.S. Mail, which served the following parties:

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/s/ Lawrence J. Dougherty

Lawrence J. Dougherty, FBN 0068637

RECEIVER'S VERIFICATION

I declare and affirm under the penalties of perjury that the foregoing facts are true and correct to the best of my knowledge and belief.

/s/ Burton W. Wiand

Burton W. Wiand, as Receiver

EXHIBIT A

TRI-MED CORPORATION
RECEIVERSHIP CASH ACCOUNTING REPORT
From March 4, 2022 to June 28, 2022

Beginning Balance on March 4, 2022		\$ 777,946.86
Increases In Fund Balance		
Interest Income	397.95	
LOP Settlements	0.00	
Litigation Settlements	0.00	
Other Income	0.00	
Total Increase in Fund Balance	<u>397.95</u>	
Decreases In Fund Balance		
Office Expense	2,004.02	
Professional fees	0.00	
Taxes - Payroll	0.00	
LOP Expenses	0.00	
Investor Distribution	0.00	
Utilities	0.00	
Total Decrease In Fund Balance	<u><u>2,004.02</u></u>	
Net Fund Increase (Decrease) from March 4, 2022 through June 28, 2022	(1,606.07)	
Claimant Distributions	<u>0.00</u>	
Total Cash on Hand as of June 28, 2022		<u><u>\$ 776,340.79</u></u>

EXHIBIT B

RECEIVERSHIP CASH ACCOUNTING REPORT
From Inception to June 28, 2022

Beginning Balance		\$ 4,828,966.97
Increases In Fund Balance		
Interest Income	80,339.43	
Promissory note interest	68,600.00	
Promissory note principal payments	500,000.00	
LOP Settlements	1,805,943.69	
Litigation Settlements	4,756,021.48	
Funds Received from US Bank and Wings Financial for IPC and Rejuva accounts	46,353.69	
Other Income	1,089,307.73	
Total Increase In Fund Balance	<u>8,346,566.02</u>	
Decreases In Fund Balance		
Bank Charges	30.00	
HOA dues	252.97	
Professional fees	67,372.84	
Professional fees - court ordered	4,659,775.84	
Insurance	5,556.44	
Licenses	639.00	
Storage	18,132.39	
Settlement Payout	5,896.65	
Repairs & Main.	6,632.60	
Taxes	17,046.86	
LOP Expenses	9,844.19	
Utilities	5,067.09	
Office Expense	5,821.84	
Total Decrease In Fund Balance	<u>4,802,068.71</u>	
Net Increase (Decrease) From Inception to June 28, 2022	\$3,544,497.31	
Total Claimant Distributions	<u>7,597,123.49</u>	
Total Cash on Hand as of June 28, 2022		<u><u>\$ 776,340.79</u></u>