

**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-EIGHTH INTERIM REPORT
AND INCORPORATED TWENTY-EIGHTH REPORT OF INVENTORY**

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-eighth Interim Report and Incorporated Twenty-eighth Report of Inventory ("**Twenty-eighth Interim Report**") to inform the Court, the investors, and others interested in the Receivership Entities of

activities from November 1, 2022 through February 28, 2023, as well as the proposed course of action.

Overview of Significant Activities During this Reporting Period

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

- Received the net amount of **\$201,042.89** from the sale of forfeited property previously owned by Eric Ager;
- Obtained an additional **\$1,508.86** in restitution payments bringing the total amount of restitution payments recovered since the appointment of the Receiver through February 28, 2023 to approximately **\$11,399.48**; 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-eighth Interim Report.

BACKGROUND

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.¹

¹ The OFR subsequently amended the complaint to include Anthony N. Nicholas, Jr. as a defendant and TMFL as a relief defendant. For more procedural history and details regarding the fraudulent scheme which involved medical-practice-related receivables subject to Letters of Protection (“**LOPs**”), please refer to 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. 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. The Receiver obtained additional restitution payments in the total amount of \$1,508.86 during the time covered by this Report. Since the appointment of the Receiver through February 28, 2023, the total amount the Receiver has obtained from restitution payments is approximately **\$11,399.48**.

On February 26, 2021, Jeremy Anderson pled guilty to the crimes charged against him in connection with this fraudulent scheme. 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. On October 14, 2022, the Eleventh Circuit Court of Appeals issued an opinion affirming the district court's decision.

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 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. On May 12, 2022, the

U.S. Attorney's office requested that the remaining forfeited funds be turned over to the Receiver. On September 8, 2022, the Department of Justice's Money Laundering and Asset Recovery Section approved the request, and the United States Secret service was instructed to effect the transfer of the funds. On November 1, 2022, the Receiver received a check from the United States Treasury for **\$201,042.89**, which are all remaining forfeiture funds from the sale. These funds have been deposited into the Receivership account.

I. 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 him. 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. 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 I.D 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.

During the time covered by this Report, the Receivership earned \$3,705.45 in interest on the Receivership accounts and, as of February 28, 2023, the total balance of these accounts is

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

\$1,058,866.41. Attached as **Exhibit A** to this Interim Report is a cash accounting report showing the amount of money on hand from November 1, 2022 less expenses plus revenues through February 28, 2023. A cash accounting report showing the amount of money on hand less expenses plus revenues from the inception of the Receivership through February 28, 2023 is attached as **Exhibit B**. These cash accounting reports do not reflect non-cash or cash-equivalent assets. Thus, the value of the medical accounts receivable discussed below is not included in the accounting reports.

B. Medical Accounts Receivable.

As discussed in prior Interim Reports, the Receiver has undertaken a painstaking review of the medical accounts receivable subject to the LOPs 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 the Receiver's efforts, his experience with collection efforts has been disappointing. Many receivables 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 met limited success. Efforts to sell the receivables to collection agencies were wholly unsuccessful. Since the Receiver's appointment through February 28, 2023, he has recovered the total amount of approximately **\$1,805,943.69** in payment of accounts receivable. The Receiver believes that he has recovered all that he reasonably can from the receivables and that the remaining receivables on the books of Tri-Med are of very little to no value. Thus, in connection with a motion to close this Receivership, the Receiver intends to seek the Court's approval to abandon the receivables that remain on Tri-Med's books.

C. Litigation.

The Receiver has two judgments outstanding from his prior litigation efforts: (1) \$139,599.98 judgment against purported sales agent A.J. Brent, and (2) \$224,500.00 consent

judgment against Holly Kwon. The Receiver has made efforts to collect on these judgments since obtaining them to no avail. The Receiver also attempted to sell these judgments to debt collectors. No debt collector has been interested in purchasing either judgment. For the foregoing reasons, the Receiver believes that these judgments have no value and intends to ask the Court for its approval to abandon them. For more information regarding litigation matters and efforts, please refer to the Receiver's Twenty-fourth Interim Report and prior Interim Reports.

D. Bankruptcy Proceeding Involving Clinics Which Were Primary Sources of Accounts Receivable.

In January 2015, primary sources for Tri-Med's accounts receivables, Visum Management, LLC, Spine Injury Physicians, LLC, and Wellness Worx Center, PLLC (collectively, "**Debtors**"), 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.³ The Receivership Entities purchased accounts receivable from the Debtors who also sold accounts receivable to other companies, including Preferred Physicians Funding ("**PPF**"). A portion of the receivables purchased 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.

The Court approved a settlement agreement between the Debtors, the Receiver, and PPF wherein 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

³ The bankruptcy proceeding is still pending although it is in its final stages and should be closed soon. According to the trustee, there are insufficient funds to pay priority claims such as those from the IRS and the U.S. Trustee. As such, the Receivership will not be able to recover any money on its claims in this matter.

a total amount of \$513,000. 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. As discussed above, the Receiver does not believe that there are any remaining collectable LOPs of any significant value and intends to seek the Court's approval to abandon the receivables which remain on the books of Tri-Med. This includes any remaining receivables which may have been double sold to PPF.

E. Claims Process

With the Court's approval, the Receiver has made two interim distributions totaling approximately \$7.6 million on a *pro rata* basis to claimants who were entitled to participate in the distributions. The claimants entitled to participate in these distributions received a total recovery of approximately 50% of their losses. As of February 28, 2023, four checks in the total amount of \$13,662.48 remain outstanding from the second interim distribution. The Receiver intends to request in the final distribution motion that the Court allow him to rollover these amounts to the final distribution to allow these claimants or their beneficiaries an additional opportunity to recover these funds. For more information regarding the claims process, please refer to prior Interim Reports.

II. The Next 120 Days.

The Receiver will work on a motion to, among other things, close the Receivership and approve a final distribution. As the Receiver has concluded that there is no economic benefit to continuing to pursue the remaining Tri-Med assets, he also will move to abandon the remaining accounts receivable and dispose of litigation judgments.

CONCLUSION

The Receivership has been lengthy and complicated but, as discussed above, the Receiver and his professionals have provided Claimants entitled to participate in these distributions a total recovery of approximately 50% of their losses. The Receiver will endeavor to move to close this Receivership as soon as practicable.

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 28th day of February, 2023.

Respectfully submitted,

/s/ Lawrence J. Dougherty

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 28, 2023, 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, for service on the following parties:

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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 November 1, 2022 to February 28, 2023

Beginning Balance on Nov 1st 2022		\$ 854,509.17
Increases In Fund Balance		
Interest Income	3,705.45	
LOP Settlements	0.00	
Litigation Settlements	0.00	
Other Income	202,551.75	
Total Increase in Fund Balance	<u>206,257.20</u>	
Decreases In Fund Balance		
Office Expense	0.00	
Bank Charges	0.00	
Storage	1,899.96	
LOP Expenses	0.00	
Investor Distribution	0.00	
Utilities	0.00	
Total Decrease In Fund Balance	<u><u>1,899.96</u></u>	
Net Fund Increase (Decrease) from November 1, 2022 through February 28, 2023	204,357.24	
Claimant Distributions	<u>0.00</u>	
Total Cash on Hand as of February 28, 2023		<u><u>\$ 1,058,866.41</u></u>

EXHIBIT B

RECEIVERSHIP CASH ACCOUNTING REPORT
From Inception to February 28, 2023

Beginning Balance		\$ 4,828,966.97
Increases In Fund Balance		
Interest Income	85,108.02	
Promissory note interest	68,600.00	
Promissory note principal payments	500,000.00	
LOP Settlements	1,805,943.69	
Litigation Settlements	4,762,021.48	
Funds Received from US Bank and Wings Financial for IPC and Rejuva accounts	46,353.69	
Other Income	1,365,199.48	
Total Increase In Fund Balance	<u>8,633,226.36</u>	
Decreases In Fund Balance		
Bank Charges	45.00	
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	21,932.31	
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	6,141.64	
Total Decrease In Fund Balance	<u>4,806,203.43</u>	
Net Increase (Decrease) From Inception to February 28, 2023	\$3,827,022.93	
Total Claimant Distributions	<u>7,597,123.49</u>	
Total Cash on Hand as of February 28, 2023		<u><u>\$ 1,058,866.41</u></u>