

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Kenneth H. Eckstein
Joseph A. Shifer
Nathaniel Allard
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 715-9100
Facsimile: (212) 715-8000

Counsel for the ResCap Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	Case No. 12-12020 (MG)
)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,)	Chapter 11
)	
Debtors.)	Jointly Administered
)	

**THIRTY-THIRD POST-CONFIRMATION STATUS
REPORT OF THE RESCAP LIQUIDATING TRUST**

The ResCap Liquidating Trust (the “**Liquidating Trust**”), as successor in interest to the debtors (collectively, the “**Debtors**”) in the above-captioned cases (the “**Chapter 11 Cases**”), hereby submits this post-confirmation status report for the period ending on December 31, 2022 (the “**Reporting Period**”), and respectfully represents as follows:

STATUS REPORT

1. On December 11, 2013, the Court entered the *Order Confirming Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC et al. and the Official Committee of Unsecured Creditors* (the “**Confirmation Order**”) [Docket No. 6065] approving the terms of the Chapter 11 plan, as amended (the “**Plan**”), filed in these Chapter 11 Cases [Docket No. 6065-1].¹

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.



2. On December 17, 2013, the Effective Date of the Plan occurred (the “**Effective Date**”), and the Liquidating Trust was established [Docket No. 6137]. Pursuant to the Plan, the Liquidating Trust was established to wind down the affairs of the Debtors. *See* Plan, Art. VI.

3. On August 13, 2014, the Liquidating Trust filed an application for entry of a post-confirmation order (the “**Post-Confirmation Order**”) [Docket No. 7385]. On August 26, 2014, the Court entered an amended Post-Confirmation Order [Docket No. 7431]. Pursuant to the Post-Confirmation Order, the Liquidating Trust is required to file quarterly and annual status reports detailing the actions taken by the Liquidating Trust and the progress made toward the consummation of the Plan.

4. Attached hereto as **Exhibit A** is a copy of the Liquidating Trust’s consolidated financial statements and letters to beneficiaries (collectively, the “**Financial Statements**”) detailing the Liquidating Trust’s activity during the Reporting Period. The Financial Statements are available on the claims agent’s website at <https://www.kccllc.net/rescap>.

NOTICE

5. Notice of this Status Report has been provided to the parties identified on the Special Service List and General Service List, as those terms are defined in the Notice, Case Management, and Administrative Procedures approved by the Court [Docket No. 141], including the Office of the U.S. Trustee for the Southern District of New York.

Dated: February 14, 2023
New York, New York

KRAMER LEVIN NAFTALIS & FRANKEL LLP

/s/ Joseph A. Shifer

Kenneth H. Eckstein

Joseph A. Shifer

Nathaniel Allard

1177 Avenue of the Americas

New York, New York 10036

Telephone: (212) 715-9100

Facsimile: (212) 715-8000

Counsel for the ResCap Liquidating Trust

Exhibit A

ResCap Liquidating Trust

ResCap Liquidating Trust

**Consolidated Financial Statements
as of and for the Period Ended December 31, 2022
(Unaudited)**

ResCap Liquidating Trust

Consolidated Statement of Net Assets in Liquidation

(Unaudited)

In thousands (except per unit)

Assets:	December 31, 2022	December 31, 2021
Cash and cash equivalents	\$ 80,330	\$ 86,827
Restricted cash	-	3,306
Other assets	-	273
Total assets	80,330	90,406
Liabilities:		
Estimated costs to operate Trust	32,530	37,830
Total liabilities	32,530	37,830
Net assets in liquidation	\$ 47,800	\$ 52,576
Total units in the Trust	98,853,649	98,853,649
Net assets per authorized unit	\$ 0.48	\$ 0.53

The Notes to Consolidated Financial Statements are an integral part of these statements.

ResCap Liquidating Trust

Consolidated Statement of Changes in Net Assets in Liquidation

(Unaudited)

In thousands

	Quarter to date ended December 31, 2022	Year to date Ended December 31, 2022	Effective Date through December 31, 2022
Receipts			
Receipts on assets held for sale	\$ 11	\$ 107	\$ 645,856
Litigation / claim recoveries	-	-	1,318,462
Other receipts	572	1,336	172,467
Plan settlements	-	-	2,100,000
Total receipts	583	1,443	4,236,785
Disbursements			
Claims and settlement	-	-	(1,642,074)
DOJ / AG consent settlement	-	-	(88,201)
Costs to operate the Trust	(1,823)	(11,247)	(727,799)
Total disbursements	(1,823)	(11,247)	(2,458,074)
Distributions			
Total distributions	-	-	(3,375,862)
Net cash flow	(1,240)	(9,804)	(1,597,151)
Other non-cash changes affecting:			
Increase (decrease) in asset value assumptions	-	-	(55,026)
(Increase) decrease in costs to operate the Trust	(10)	(5,949)	(554,177)
(Increase) decrease in DOJ/AG consent settlement	-	-	(7,551)
Basis of assets/liabilities liquidated/resolved	1,823	10,977	(253,896)
(Increase) decrease in distributions held for Beneficiaries	-	-	-
Total non-cash changes	1,813	5,028	(870,650)
Total increase (decrease) in net assets	573	(4,776)	(2,467,801)
Net assets in liquidation, beginning of period	47,227	52,576	2,515,601
Net assets in liquidation, end of period	\$ 47,800	\$ 47,800	\$ 47,800

The Notes to Consolidated Financial Statements are an integral part of these statements.

ResCap Liquidating Trust

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

1. Description of Business and Significant Accounting Policies

The ResCap Liquidating Trust (“Trust”) was formed in connection with the Plan of Reorganization under chapter 11 of the United States Bankruptcy Code (“Plan”) in the bankruptcy case of Residential Capital, LLC (“ResCap”). The Plan became effective on December 17, 2013 (“Effective Date”).

Units of beneficial interest (“Units”) were issued by the Trust. The Units entitle their holders (“Beneficiaries”) to receive a proportionate amount of cash distributions (“Declared Distributions”) made by the Trust.

Basis of Presentation

The unaudited Consolidated Financial Statements (the “Statements”) reflect the accounts of the Trust and subsidiaries after eliminating all significant intercompany balances and transactions. The Statements reflect all adjustments that are, in management’s opinion, necessary for the fair presentation of the results for the periods presented. The Statements have not been prepared in accordance with generally accepted accounting principles; rather they have been prepared using a liquidation basis of accounting, which the Trust considers an appropriate basis of accounting at this time. The assets are stated at their estimated net realizable value, which is the amount of cash into which an asset is expected to be converted during the liquidation period. The Trust also accrues costs that it expects to incur through the end of its liquidation. The Trust currently accrues costs through June 30, 2024, however, the prosecution of the remaining litigation discussed below, and the corresponding timeline for resolving such litigation through trial or appeals may cause the Trust to be further extended beyond June 30, 2024 resulting in an increase to future accrued costs for such extended periods and a corresponding reduction in cash available. The Trust will record and value affirmative settlements or judgments when realized and collectability is reasonably anticipated. The Trust does not accrue contingent costs.

Cash and Cash Equivalents and Restricted Cash

Cash and cash equivalents include cash on hand and short term and governmental money market funds. Restricted cash consists of cash that is restricted for specific purposes and is not generally available to the Trust.

Affirmative Recoveries

The Trust will record and value affirmative settlements or judgments when realized and collectability is reasonably anticipated.

Estimated Costs to Operate the Trust

The Trust accrues for all costs it expects to incur during its lifetime based on approved strategic assumptions and the Trust’s current estimates. These costs are estimated based on asset resolution strategies, litigation timelines and modeled wind-down expenses of the Trust’s operations and are recorded as liabilities.

The estimated future legal cost includes current pre-trial, trial, and potential appeal costs for the pending cases. Actual future costs could vary significantly depending upon a wide variety of factors due to the uncertainties inherent in complex litigation. On a periodic basis, the Trust evaluates such estimates to take into consideration the overall status of the litigation and any material changes in circumstances or factors affecting the litigation, including but not limited to updated scheduling of the cases, discovery, settlements, and other factors that may affect such estimates. The Trust will record and value affirmative settlements or judgments when realized and collectability is reasonably anticipated. The Trust does not accrue contingent costs.

ResCap Liquidating Trust

Income Taxes

The Trust is a Grantor Trust, treated as a flow-through entity for U.S. federal and state income tax purposes. The Trust is not subject to U.S. federal or state income taxes; therefore, no accrual for these taxes is made. The Trust files a federal return and multiple state returns. While there are no ongoing examinations, the federal returns dating to the 2019 calendar year remain open. State returns generally remain open for either three or four years after filing.

2. Estimated Costs to Operate the Trust

Estimated costs to operate the Trust are comprised of the following (in \$000's):

	December 31, 2022			December 31, 2021	
	Accrued	Future	Total	Total	
Professional fees (legal, expert, other professional costs)	\$ 7,223	\$ 22,841	\$ 30,064	\$	32,538
Compensation	375	-	375		375
Document management	-	135	135		775
Information technology	-	982	982		1,632
Other operating costs	-	974	974		2,510
Total costs to operate the Trust	\$ 7,598	\$ 24,932	\$ 32,530	\$	37,830

The estimated cost to operate the Trust is \$32.5 million including \$7.6 million of expenses that have been incurred but not yet paid (\$7.2 million professional fees, and \$.4 million other operating costs) and \$24.9 million of expected future costs for the period January 2023 through June 2024. Of the future \$24.9 million cost, \$11.1 million supports the on-going insurance recovery case pending in the Bankruptcy Court, SDNY and RMBS litigation and \$13.8 million represents existing contractual obligations and the future costs for the operations and wind-down of the Trust.

3. Commitments and Contingencies

Affirmative Matters

The Trust is pursuing various affirmative matters. These include:

Indemnity Claim Action - There is one pending indemnity claim against Primary Residential Mortgage, Inc., ("PRMI") which was tried in Minnesota Federal Court in a bench trial. In August 2020, the Federal District Court in Minnesota entered a judgment of \$5.4 million in favor of the Trust in the matter of PRMI. In April 2021, the Federal District Court in Minnesota granted the Trust \$16.6 million in attorney fees, costs, pre-judgment interest and post judgment interest on the award plus pre-award interest increasing the total award to \$22.0 million. PRMI appealed the decision to the United States Court of Appeals for the 8th Circuit and posted the requisite appeal bond which stays the enforcement of the award pending the appeal. On February 2, 2023, the 8th Circuit Court affirmed the District Court decision except with respect to interest for the time period between the initial judgment and final judgment in the approximate amount of \$522,000 to which the 8th Circuit Court vacated the

ResCap Liquidating Trust

judgment and remanded to the District Court for recalculation at a lower interest rate. Additionally, the Trust will be seeking costs incurred related to the appeal in an amount to be determined.

Insurance Recovery Action - The Trust has an adversary proceeding case pending in the U.S. Bankruptcy Court for the Southern District of New York, Drennen, et al., and ResCap Liquidating Trust v. Certain Underwriters at Lloyd's, London, et al., Adv. Case No. 15-01025-dsj. In December 2019, the Bankruptcy Court issued a partial Summary judgment in favor of the Trust. The Trust's claim is approximately \$73.0 million, exclusive of interest and fees. At the end of 2022, the Court issued a decision on the summary judgment motions and ruled in the Trust's favor on all major issues.

At this time, the Trust cannot predict the outcome of these matters or estimate the possible financial effect of these matters on the Consolidated Financial Statements, and as such, neither contingent gains nor any contingent costs to pursue these matters are currently recorded.

4. Subsequent Events

Events subsequent to December 31, 2022 were evaluated through February 14, 2023, the date on which these Consolidated Financial Statements were issued. On February 2, 2023, the 8th Circuit Court of Appeals issued their decision in the PRMI litigation in favor of the Trust. On February 2, 2023, the Bankruptcy Court in the District of Delaware issued their Order for distribution in the WL Homes bankruptcy approving final distribution of \$2,670,747 to the Trust.

RESCAP

LIQUIDATING TRUST

ResCap Liquidating Trust

Q4 2022 Beneficiary Letter

RESCAP

LIQUIDATING TRUST

February 14, 2023

Dear Beneficiaries:

The Trust continued its efforts to wind down the Trust effectively and efficiently.

In Q4 2022, the Trust filed a motion in the bankruptcy court to extend the Trust for an additional two years through December 17, 2024. The court granted the motion.

The Trust continues to pursue litigation in its insurance recovery action pending in the U.S. Bankruptcy Court for the Southern District of New York. At the end of 2022, the court issued a decision on the summary judgment motions and ruled in the Trust's favor on all major issues. The amounts at issue are discussed in the accompanying financial statements. On February 2, 2023, the 8th Circuit Court affirmed the District Court decision except with respect to interest for the period between the initial judgment and final judgment in the approximate amount of \$522,000 to which the 8th Circuit Court vacated the judgment and remanded to the District Court for recalculation at a lower interest rate. Additionally, the Trust will be seeking costs incurred related to the appeal in an amount to be determined.

The Administrative Set Aside of \$24.9 million (net of costs incurred but not yet paid) reflects the extension of the Trust through June 2024 to support the continuing work with the insurance adversary action, the one remaining RMBS litigation, and final wind down actions. A breakdown of the costs is shown in the accompanying financial statements.

To aid Beneficiaries in their tax reporting, the Trust is providing a quarterly Tax Information letter and is being distributed along with this quarterly Beneficiary Letter.

The Trust's quarter end Q4 2022 financial report has been filed with the bankruptcy court. The financial report along with certain tax information have been posted to the Kurtzman Carson Consulting website at <http://www.kccllc.net/rescap>.

The Trust continues to work diligently towards the goal of maximizing value for Beneficiaries in the most efficient manner possible. We look forward to reporting on the results of our efforts.

Sincerely,

ResCap Liquidating Trust Board