

TOUSA Liquidation Trust

Quarterly Report - For the Quarter Ended September 30, 2018

November 2018



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Trust Activities

Recordkeeping

CohnReznick LLP (“CR”)¹ maintains the books and records of the Liquidation Trust, utilizing QuickBooks (“QB”) accounting software. Following the resignation of certain employees of the Liquidation Trust, control of the accounts maintained in QB was transitioned to CR. Various electronic and hard copy records and files were also transferred to CR. CR obtains the appropriate approvals from the Liquidation Trust Advisory Board and/or the Liquidation Trustee for disbursement of funds from all accounts maintained by the Liquidation Trustee, including Debtor accounts, and handles the daily, weekly and monthly cash activities. These activities include, among other things, internal bank transfers, wire transfers, transmission of electronic data to the Liquidation Trustee for ultimate transmittal to Wells Fargo Bank, bank account reconciliations, administering payroll, payroll tax remittance and reporting, payment of Liquidation Trust expenses, payment of Debtor-related obligations, processing and related bookkeeping of various classes of creditor distributions, and reporting to the Liquidation Trustee and the Liquidation Trust Advisory Board.

US Trustee Reporting

CR handles the quarterly reporting of the Debtors and Liquidation Trust activities to the U.S. Trustee. To date, the Trust has prepared and filed all required quarterly reports through September 30, 2018.

Tax Filings

The Trust has prepared and filed all required 2013, 2014, 2015, 2016 and 2017 federal and state income tax returns.

Valuation of Trust Assets

In March 2014, CR prepared a report that valued the Liquidation Trust interests as of August 21, 2013. Below is a website link to the report.

<https://clientaccess.kccllc.com/documents/0810928/08109281404110000000000001.pdf>

¹ Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to such terms in the *Amended Joint Plan of Liquidation of TOUSA, Inc. and its Affiliated Debtors and Debtors in Possession Under Chapter 11 of the Bankruptcy Code*, dated August 6, 2013 (the “Plan”).

Claims Distributions

Claims Resolution/Distribution

The Liquidation Trust made final distributions to all Allowed Administrative Claims, priority claims and TOUSA Class 1A Claims. As a result of the settlement with the Transeastern Lenders (please see page 13), during the first quarter of 2018, the Liquidation Trust made distributions to TOUSA Class 1B Claims and TOUSA Class 2 Claims totaling \$121 million. In addition, distributions were made to Conveying Subsidiaries Class 4A and 4B Claims totaling \$40 million. TOUSA Class 5A and 5B Claims and Conveying Subsidiaries Class 4A and 4B Claims have received initial and supplemental or final distributions totaling over \$368 million. Additional distributions are dependent upon the outcome of the Liquidation Trust's remaining litigation claims and the Trust's ongoing expenses. The resolved general unsecured claims are broken into the following categories:

- Employee claims;
- Claims receiving a one-time five percent distribution (the "Minimum Conveying Subsidiary Recovery Amount"), the holders of which are not Liquidation Trust Beneficiaries, where the initial distribution on account of such claims is less than \$600;
- Claims receiving the Minimum Conveying Subsidiary Recovery Amount, the holders of which are not Liquidation Trust Beneficiaries, where the initial distribution on account of such claims is more than \$600;
- Claims receiving more than one distribution, the holders of which are Liquidation Trust Beneficiaries; where the distribution is less than \$100; and
- Claims receiving more than one distribution, the holders of which are Liquidation Trust Beneficiaries; where the distribution is more than \$100.

The General Unsecured Claims are broken into the above categories for tax and reporting purposes, as well as for administrative efficiency. Page 4 provides a breakdown of the number of claims that have received an initial or partial distribution and the associated dollar amounts.

Schedule of Distributions²

Claim	Number of Claims	Amount Distributed
Revolver Claim	1	\$ 7,306,277
First Lien Term Loan Lender Claims	1	101,686,181
Second Lien Term Loan Lender Claims	1	36,192,539
Senior Notes Claims	1	364,346,731
Secured Claims	4	41,009
Administrative Claims and Expenses	13	10,713,767
Priority Claims	44	150,860
Employee Claims (general unsecured)	11	214,251
General Unsecured Claims receiving less than \$600 distribution (not Liquidation Trust Beneficiaries)	172	14,681
General Unsecured Claims receiving more than \$600 distribution (not Liquidation Trust Beneficiaries)	50	651,559
General Unsecured Claims (Liquidation Trust Beneficiaries)	678	22,335,101
General Unsecured Claims (No W-9 form provided or less than \$100 distribution)	-	-
Total Creditor Distributions	976	\$ 543,652,957

² Below schedule includes distributions through September 30, 2018.

Unaudited Balance Sheet as of September 30, 2018

ASSETS	
Current Assets	
Cash ⁽¹⁾	\$3,556,683
Prepaid Insurance and Other	<u>102,933</u>
Total Current Assets	3,659,616
Other Assets ⁽²⁾	<u>402,102</u>
TOTAL ASSETS	<u><u>\$4,061,718</u></u>
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities:	
Accounts Payable	\$163,303
Initial Liquidation Trust funding	<u>-</u>
Total Liabilities	<u>163,303</u>
Equity	
Liquidation Trust Interests:	
FLTL Lenders	2,601,772
SLTL Lenders	-
General Unsecured Creditors	<u>3,902,657</u>
Liquidation Trust Interests	6,504,429
Retained Earnings (Deficit)	<u>(2,606,015)</u>
Total Equity	<u>3,898,414</u>
TOTAL LIABILITIES AND EQUITY	<u><u>\$4,061,717</u></u>

Unaudited Balance Sheet as of September 30, 2018

(1) In addition to the Cash that is an asset of the Liquidation Trust, the Liquidation Trust holds Debtor funds (as a disbursing agent of the Debtors), in the approximate amount of \$8.6 million as a reserve for Debtor and trust expenses, including funding the Transeastern litigation.

(2) Other Assets are based on the November Valuation Report, which indicated a total asset value of approximately \$102.7 million as of the Effective Date. Subsequent to the Effective Date, the Liquidation Trust monetized the assets listed on page 8. In addition, the Liquidation Trust made required capital contributions totaling approximately \$8,000 to Remington Ranch and Brushy Creek. Below is a reconciliation from the financial statements to the November Valuation Report:

Other Assets per Financial Statement	\$ 402,102
AIG/Chartis Receivable	1,339,000
Preference Actions	(86,866)
Entrada Del Oro	244,100
Preferred Home Mortgage Co.	2,998,300
Universal Land Title Inc.	88,000
Woodland Pines	1,011,000
RSUI	194,000
Retainers	6,767
Remington Ranch	119,413
Remington Ranch Capital Call	(4,388)
Brushy Creek	196,750
Brushy Creek Capital Call	(3,750)
Total per November Valuation Report	<u>\$ 6,504,429</u>

Unaudited Income Statement for the Quarter Ended September 30, 2018

	For the Quarter Ended September 30, 2018	
Interest Income	\$	6,107
Other Income		-
Total Income		<u>6,107</u>
Rent		878
Professional Fees		372,261
IT		18,050
Insurance		26,537
Bank Charges		5,327
UST Fees		16,900
Other		10,360
Total Expenses		<u>450,312</u>
Net Income (Loss)	\$	<u><u>(444,205)</u></u>

Schedule of Receipts from Financial Assets

Asset	Q1 - 2018	Q2 - 2018	Q3 - 2018	Since Inception
AIG/Chartis				\$1,356,150
Transeastern Litigation	#####			\$162,144,110
Various Preference Actions	\$686			347,510
Brushy Creek				331,479
Woodland Pines				1,884,728
Preferred Home Mortgage Co.				2,980,069
Universal Land Title Inc.				93,098
RSUI				25,000
Entrada del Oro				250,000
AlixPartners				475,000
Lake Las Vegas Litigation				2,586,542
Refund of Professional Fee Retainers				6,767
Total	#####	\$0	\$0	\$172,480,453

Schedule of Non-Negotiated Checks

3/19/2018	2495	23 - CIT Technology Financing	(121.72)
3/19/2018	2496	24 - CIT Technology Financing	(120.10)
3/19/2018	2497	25 - CIT Technology Financing	(126.58)
3/19/2018	2499	26 - CIT Technology Financing	(112.80)
3/19/2018	2500	27 - CIT Technology Financing	(121.30)
3/19/2018	2501	28 - CIT Technology Financing	(109.59)
3/19/2018	2502	30 - CIT Technology Financing	(125.95)
3/19/2018	2503	29 - CIT Technology Financing	(125.95)
3/19/2018	2504	33 - CIT Technology Financing	(126.93)
3/19/2018	2505	48 - CIT Technology Financing	(121.30)
3/19/2018	2506	51 - CIT Technology Financing	(121.30)
3/19/2018	2514	S1524-CMR Claims	(144.48)
3/19/2018	2529	4258-Flagler Development Company	(1,592.38)
3/19/2018	2540	James Marketing & Advertising Inc.	(112.54)
3/19/2018	2559	Marlin Leasing Corporation	(209.63)
3/19/2018	2561	S1800-McManus Schor Asmar and	(183.42)
3/19/2018	2633	Motivational Systems Inc.	(209.65)
3/19/2018	2571	4257-MTJ Orlando LLC	(1,785.84)
3/19/2018	2573	S573 - Nevada Power	(173.48)
3/19/2018	2576	1840-Overlook TH LLC	(138.99)
3/19/2018	2579	2739-Port Potomac Associates LLC	(41,864.25)
3/19/2018	2580	1772-Puritan Finance Corporation	(2,771.57)
3/19/2018	2597	4201-The Arizona Republic	(921.07)
3/19/2018	2610	7705-Yantis Company	(125.80)
3/19/2018	2622	S2120-Verizon	(181.24)
3/19/2018	2473	1364-Architectural Arts by Vathauer Studio Inc	(169.60)
3/19/2018	2475	1908-Bancroft Gregory	(307.18)
3/19/2018	2477	1944-Becker & Poliakoff PA	(284.56)
3/19/2018	2478	7637-Brentwood Granite Marble & Tile LLC	(108.15)
3/19/2018	2494	22 - CIT Technology Financing	(100.38)
3/19/2018	2480	S1455-Brighthouse Networks	(133.67)

Resolved Claims - Q3 2018

The Trust believes that it has resolved all claims for which resolution is not dependent on ongoing litigation. Out of an abundance of caution, however, the Trust filed a motion to extend the claims objection deadline. The Court approved the extension through February 19, 2018. No further extension was requested.

Transeastern Litigation Update

In December 2017, the Liquidation Trustee and almost all of the Transeastern Lenders entered into a settlement agreement resolving approximately 95% of the remaining liability in the Transeastern litigation. Pursuant to that agreement, the settling Transeastern Lenders agreed to pay \$160 million to the Liquidation Trust and, in return, received a full release for any liability in connection with the fraudulent transfer as well as return or extinguishment of any bond or cash collateral in excess of the \$160 million. As part of the settlement, the Transeastern Lenders also agreed to move to dismiss with prejudice their appeal pending in the U.S. Court of Appeals for the Eleventh Circuit. This settlement was approved by the bankruptcy court on January 12, 2018 and subsequently implemented by the parties, with the Transeastern Lenders making a \$160 million payment and dismissing the appeal.

Three Transeastern Lenders did not join in the settlement. Black Diamond subsequently agreed to similar terms, paying \$789,096 to the Liquidation Trust in return for a full release of its liability and return of any cash collateral posted in excess of that amount. 3V Capital Master Fund Ltd. (3V) is believed to be defunct, having failed in the financial crisis of the late 2000s, and no efforts to pursue 3V are contemplated at the present time. The Liquidation Trustee is currently seeking to collect on the judgment against Stedman CBNA Loan Funding LLC and has filed a writ of garnishment on approximately \$4.5 million maintained in a U.S. Bank account. Certain Stedman entities have opposed that writ. The parties have reached a tentative settlement, whereby the Stedman entities would pay approximately \$3.6 million to the Liquidation Trust in satisfaction of the judgment against Stedman in the Transeastern Litigation. The parties are currently in the process of memorializing this agreement.

Falcone Action Update

In view of the recent settlement in the Transeastern Litigation, the Trust allowed the stay in Adversary Proceeding No. 10-02125 (the “Falcone Action”) to expire on March 13, 2018. Since that time, the parties have entered into a stipulated Case Management Order that provides for fact and expert discovery. The parties have been engaged in written discovery since Summer 2018 and have a mediation scheduled for December 2018.

Federal and State Tax Filings

2012

All required federal and state income tax returns for the Debtors have been filed. The total taxes due with these returns, which were minimum state income/excise taxes in Tennessee, were \$200. The TOUSA Group filed 2 federal returns and 23 state returns for the year ended December 31, 2012.

2013 Returns

All required federal and state returns for the Debtors for the period from January 1, 2013 through August 21, 2013 have been filed as final returns. The only tax liabilities incurred with the filings of the Group's returns were franchise taxes in Tennessee (\$100) and Texas (\$5,100) for which net operating losses carryovers are not available. The federal and Texas returns were reviewed by Ernst & Young prior to filing. There were 2 federal and 13 state returns filed for 2013.

2014 Returns

All required federal and state tax returns for the Trust and DCR for the period from January 1, 2014 through December 31, 2014 have been timely filed.

2015 Returns

All required federal and state tax returns for the Trust and DCR for the period from January 1, 2015 through December 31, 2015 have been timely filed. The Trust timely filed the DCR's 2015 final federal and state tax returns.

2016 Returns

The required federal tax return for the Trust for the period from January 1, 2016 through December 31, 2016 have been timely filed.

2017 Returns

The required federal tax return for the Trust for the period from January 1, 2017 through December 31, 2017 have been timely filed.

Other Tax Related Matters

All post-petition period returns were filed requesting prompt determination of tax liability. As of September 30, 2017, no taxing authority has indicated that it intends to audit or make changes to the returns as filed, most of which have substantial unused net operating loss carryovers as discussed above. Based on the time during which taxing authorities may initiate the audit process under the prompt determination procedures, it is likely all of these returns have been accepted as originally filed.

Federal and State Tax Filings

Other Tax Related Matters (Continued)

In late June of 2014 the IRS alleged that the 2013 partnership return for TOUSA Homes Florida was filed late and assessed a small penalty. In December of 2014, based on certified filing information supplied by the Liquidation Trust, the IRS abated all penalties and the assessment has been reduced to zero.

In July 2015, one of the Debtors, TOUSA Homes, Inc., received notices of assessment of penalties related to its 2004 and 2005 filings of Form 1099. Since these assessments were small (\$1,300), they were not contested and were paid. Additionally a small Florida penalty assessment of \$100 was not contested and was paid.

TOUSA, Inc. had challenged the 2009 and 2010 property tax assessments of Osceola County related to the Regal Oaks project in Orlando with an estimated maximum recovery of \$50,000-\$75,000. A suit had been filed in the Osceola County Court by the Company against the County Assessor after administrative procedures proved unsuccessful in resolving this challenge. Since the Company was not able to produce sufficient information necessary to continue the pursuit of this challenge, in October 2014, the parties voluntarily agreed to jointly dismiss the suit with each party agreeing to bear their own costs. As the result of such dismissal, the services of the Company's legal counsel (Harlee & Bald) were concluded with the refund of \$6,766.50 for the remainder of an advance fee deposit held in escrow by Harlee & Bald.

In reviewing of the status of all of the filed claims earlier in 2015, it was discovered that a claim (#4209 for \$55,000 against TOUSA Homes, Inc.) made by the IRS remained open. The IRS conceded that there was no valid claim against TOUSA Homes, Inc. and provided a letter in support of the Company's objection to the claim which was filed with the Court. The Court sustained the Company's objection and the claim was dismissed in the third quarter of 2015.