

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

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

MARC S. DREIER,

Defendant.

08 Civ. 10617 (MGC)

ECF CASE

**REPORT OF THE RECEIVER AND
REQUEST FOR DISSOLUTION OF RECEIVERSHIP**

MARK F. POMERANTZ
Receiver for the Assets of Marc S. Dreier

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February 17, 2009

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- Exhibit 1. Complaint, *United States v. Dreier*, 08 Mag. 2676, December 4, 2008.
- Exhibit 2. Application in Support of *Ex Parte* Pre-Indictment Restraining Order, *United States v. Dreier*, M18-981, December 24, 2008.
- Exhibit 3. *Ex Parte* Pre-Indictment Restraining Order and Seizure Warrants, *United States v. Dreier*, M18-981, December 29, 2008.
- Exhibit 4. Consent Order for Extension of Pre-Indictment Restraining Order and Seizure of Property, *United States v. Dreier*, M18-981, January 12, 2009.
- Exhibit 5. Indictment, *United States v. Dreier*, 09 Cr. 085 (JSR), January 29, 2009.
- Exhibit 6. Complaint, *SEC v. Dreier*, 08 Civ. 10617 (MGC), December 8, 2008.
- Exhibit 7. Order to Show Cause, Temporary Restraining Order, and Order Freezing Assets and Granting Other Relief, *SEC v. Dreier*, 08 Civ. 10617 (MGC), December 10, 2008.
- Exhibit 8. Declaration of John Provenzano in Support of Plaintiff's Emergency Application for Temporary Restraining Order, Preliminary Injunction, Asset Freeze, Order to Show Cause and Other Relief, *SEC v. Dreier*, 08 Civ. 10617 (MGC), December 8, 2008.
- Exhibit 9. Declaration of Joel A. Chernov in Support of Plaintiff's Emergency Application for Temporary Restraining Order, Preliminary Injunction, Asset Freeze, Order to Show Cause and Other Relief, *SEC v. Dreier*, 08 Civ. 10617 (MGC), December 8, 2008.
- Exhibit 10. Declaration of Norman N. Kinel, *SEC v. Dreier*, 08 Civ. 10617 (MGC), December 8, 2008.
- Exhibit 11. Receiver's Notice to Current and Former Employees of Dreier LLP and Related Entities, December 12, 2008.
- Exhibit 12. Endorsed Letter to Judge Miriam Goldman Cedarbaum from Mark F. Pomerantz, *SEC v. Dreier*, 08 Civ. 10617 (MGC), dated December 11, 2008, so ordered December 15, 2008.

- Exhibit 13. Stipulation and Preliminary Injunction Order, *SEC v. Dreier*, 08 Civ. 10617 (MGC), January 15, 2009.
- Exhibit 14. Receiver's Petition for Chapter 11 Bankruptcy on behalf of Dreier LLP, *In re Dreier LLP*, 08-15051 (SMB), December 16, 2008.
- Exhibit 15. Motion of Trustee for Order Pursuant to Sections 105 and 541 of the Bankruptcy Code Authorizing the Release of Trust Funds Determined not to be Property of the Estate, *In re Dreier LLP*, 08-15051 (SMB), February 10, 2009.
- Exhibit 16. Involuntary Petition for Chapter 7 Bankruptcy of Marc S. Dreier, *In re Dreier*, 09-10371, January 26, 2009.
- Exhibit 17. List of Accounts Belonging to Marc Dreier and Related Entities, compiled by the Receiver in the course of his work.
- Exhibit 18. Inventory of Marc Dreier's Art, compiled by the Receiver in the course of his work.
- Exhibit 19. List of Marc Dreier's Real Estate, compiled by the Receiver in the course of his work.
- Exhibit 20. Title Report, East Quogue, NY Property purchased in 2005, December 19, 2008.
- Exhibit 21. Title Report, East Quogue, NY Property purchased in 2004, December 19, 2008.
- Exhibit 22. Putative Stock Purchase and Sale Agreements for 109 Dune Road LLC and 111 Dune Road LLC, October 8, 2008.
- Exhibit 23. List of Marc Dreier's Vehicles, compiled by the Receiver in the course of his work.
- Exhibit 24. List of Stock Certificates held by Marc Dreier, compiled by the Receiver in the course of his work.
- Exhibit 25. Letter Agreement between Dreier Stein Kahan Browne Woods George LLP and YS Interactive Corp., June 30, 2008.
- Exhibit 26. Ian Austen, *Nortel Seeks Bankruptcy Protections*, N.Y. Times, Jan. 15, 2009, available at <http://www.nytimes.com/2009/01/15/technology/companies/15nortel.html>.
- Exhibit 27. Itemized List of Interior Furnishings Owned by Marc Dreier, compiled at the direction of the Receiver by a third party.

- Exhibit 28. Aged WIP Fee and Distribution Report, Dreier LLP and related entities, as of December 15, 2008.
- Exhibit 29. List of Investors in Dreier's Fraudulent Notes, compiled by the Receiver in the course of his work.
- Exhibit 30. Chart Documenting Dreier's Description of the Activity in the 5966 Account.
- Exhibit 31. List of Marc Dreier's Secured Creditors, compiled by the Receiver in the course of his work.
- Exhibit 32. List of Dreier LLP's 30 Largest Unsecured Claims, *In re Dreier LLP*, 08-15051 (SMB), December 16, 2008.

Mark F. Pomerantz, Court-appointed Receiver for the assets of Marc S. Dreier, respectfully submits this Report to the parties and to the Court in accordance with the Order of the Court entered on December 10, 2008. The purpose of this Report is to: (i) describe the Receiver's work and findings, and (ii) request dissolution of the Receivership.¹

I.

SUMMARY OF FACTUAL BACKGROUND

The Receiver's work took place in the context of criminal and SEC charges filed against Marc S. Dreier, a prominent New York lawyer and the sole equity partner of Dreier LLP, a New York City-based law firm that at the time of Dreier's arrest employed approximately 300 people, about half of whom were lawyers.² The criminal charges—filed by the United States Attorney for the Southern District of New York (the "USAO") on December 4, 2008—came soon after Dreier's arrest in Canada on

¹ Because the order entered by the Court calls for a report to the parties and to the Court (and not to the public), and because the exhibits to this Report contain documents and information about victims not previously disclosed in publicly-filed documents, we have not filed this Report with the Clerk of the Court. In the event that the Court wishes to have the Report filed, we suggest that the exhibits (which contain a mix of public documents and non-public information) not be filed, be filed under seal, or be redacted in order to omit sensitive information. We have deliberately sought to remove references to specific individuals or entities (or other non-public information) from the text of the Report itself, but that detail could not be removed from the exhibits without unduly limiting the information presented.

² As discussed in more detail below, Marc Dreier was also the sole owner of several affiliated firms, including Pitta & Dreier LLP; Pitta, Bishop, Del Giorno and Dreier LLP; Schlesinger, Gannon and Lazetera LLP; Berry, Block & Bernstein LLP; Dreier Stein Kahan Browne Woods George LLP; Mason Miller LLP; Entertainment Strategies Group; and Dreier Sports Opportunities Group. Together these firms employed an additional 100 lawyers and other professionals. Combined, all of the Dreier entities—none of which ultimately survives in its original form—employed more than 500 people, including lawyers and staff.

December 2, 2008.³ That arrest was based on charges that Dreier had impersonated an employee of the Ontario Teachers' Pension Plan in connection with an effort to sell a fictitious note purported to be worth \$44.7 million. (*See Complaint, United States v. Dreier*, 08 Mag. 2676, Dec. 4, 2008, ¶ 11, attached as Exhibit 1).

The criminal complaint, filed under seal in the United States District Court for the Southern District of New York, charged Dreier with securities and wire fraud in connection with sales of fictitious notes purportedly issued by a New York City-based real estate development company. The complaint, unsealed on December 8, 2008, alleged that Dreier had engaged in a systematic and brazen fraud that included the falsification of documents and impersonation of others. (*See generally id.*)

In an enforcement action filed the same day, the Securities and Exchange Commission ("SEC") charged that Dreier had violated the securities laws by selling (and offering to sell) fictitious notes. In its complaint, the SEC alleged that Dreier

creat[ed] an elaborate charade designed to convince purchasers that the notes were real obligations of an existing New York real estate development company. Along with the fictitious notes, Dreier distributed phony financial statements and audit opinions, and recruited accomplices to play the parts of representatives of legitimate companies purportedly involved in the transactions, even creating dummy email addresses and telephone numbers to perfect the illusion of legitimacy.

(Complaint, *SEC v. Dreier*, 08 Civ. 10617 (MGC), Dec. 24, 2008 ¶ 1, attached as Exhibit 6.)

³ On January 29, 2009, a grand jury in this district returned a criminal indictment that charged Dreier with conspiracy, securities fraud, and wire fraud. (*See Indictment, United States v. Dreier*, 09 Cr. 085 (JSR), Jan. 29, 2009, attached as Exhibit 5.) The criminal case was assigned to the Honorable Jed S. Rakoff.

The SEC's Complaint was accompanied by requests for various forms of emergency relief. Papers submitted in support of those motions alleged that Dreier, among other things, had been involved in large, recent, and questionable movements of funds into and out of Dreier LLP escrow accounts. (See Declaration of John Provenzano ("Provenzano Decl.") ¶¶ 5-12, attached as Exhibit 8; Declaration of Joel Chernov ("Chernov Decl.") ¶¶ 6-7, attached as Exhibit 9; Declaration of Norman Kinel ¶¶ 13-15, attached as Exhibit 10.) Those papers also alleged that Dreier had used tens of millions of dollars in Dreier LLP funds to purchase personal property, including artwork, and that Dreier's actions had left the firm—of which he was the sole owner and over whose books and records he had exclusive control—in a state of disarray. (See Provenzano Decl. ¶ 12; Chernov Decl. ¶¶ 3-5.)

On December 10, 2008, the Court issued an order to show cause temporarily restraining all of Dreier's assets—including his interest in Dreier LLP—and appointing Mark F. Pomerantz as Receiver. (See Order to Show Cause, attached as Exhibit 7).⁴ The Order directed the Receiver to take steps to preserve the *status quo*; to ascertain the extent of commingling of funds between and among Dreier, Dreier LLP, and certain affiliated entities; to ascertain the disposition of investor funds; and to

⁴ Although the Court initially granted relief on an emergency basis in the form of an order to show cause, the Court converted that relief into a preliminary injunction when it issued a Stipulation and Preliminary Injunction Order (the "PI Order") on January 13, 2009, attached as Exhibit 13. In so doing, the Court also lifted the restraint as to certain assets in order to allow the United States Government to seize them in connection with its ongoing criminal proceeding. (*Id.*) The Receiver's cooperation with the SEC and the government in securing assets through a variety of means is described in detail below.

determine whether Dreier, Dreier LLP, or any affiliated entity should file for bankruptcy. (Order to Show Cause ¶ X, at 16-17.)

In order to allow the Receiver to discharge these duties, the Order gave him broad authority to take possession and control of the assets and property of Dreier and Dreier LLP, including the authority to pay necessary business expenses; to engage persons to assist him in fulfilling his duties; and to develop a preliminary plan for the administration of the assets of the receivership. (*Id.* at 17-18.) The Order required the Receiver to report to the Court and to the parties with respect to “[a]ll assets, money, funds, securities, and real or personal property” held by Dreier, Dreier LLP, and the related entities. (*Id.*) The Receiver also was directed to provide a list of secured creditors and financial institutions with an interest in the receivership assets and a list of investors in the securities sold by Marc Dreier. (*Id.*) This Report is intended to fulfill the Receiver’s reporting obligation.⁵

Further, and in light of events—including the appointment of a bankruptcy trustee for Dreier LLP and the imminent appointment of a trustee for Marc S. Dreier personally⁶—the Receiver respectfully requests that the Receivership be dissolved. As discussed in more detail below, and as discussed previously with the Court, the Receiver believes that the interests of all parties, and especially the interests of victims and creditors, are best served by allowing the two bankruptcy trustees (along with the USAO,

⁵ This Report was originally due to be submitted on January 26, 2009. The Receiver sought a twenty day extension of time to submit the Report, which was granted by the Court on February 13, 2009.

⁶ A trustee for Dreier LLP was appointed on January 9, 2009. We have been informed that a trustee for the estate of Marc S. Dreier (who was placed in bankruptcy on January 26, 2009) will be appointed in the near future.

which has now seized the great majority of Dreier's tangible assets)⁷ to continue the process of gathering assets and managing the bankrupt estates' affairs. For this reason, we believe that the continued operation of the Receivership—with its attendant costs and the risk of duplication of effort and further depletion of assets—is no longer necessary.

The Receiver of course will continue to cooperate with the trustees of the estates of both Marc Dreier and Dreier LLP to ensure continuity in the management of their affairs; he will also continue cooperating with the SEC and the United States Attorney's Office, and will facilitate the orderly disposition of recovered assets to the victims of Dreier's frauds and the creditors of the now-bankrupt estates.

II.

THE RECOVERY AND SAFEGUARDING OF ASSETS

The Receiver's primary mission was to locate, recover, and safeguard assets belonging to Marc Dreier and to Dreier LLP so that those assets could be preserved for ultimate liquidation and distribution to the appropriate parties. To this end, the Receiver and his counsel obtained and reviewed books and records belonging to Dreier personally and to Dreier LLP, including information obtained from various financial institutions where Marc Dreier and Dreier LLP kept accounts. The Receiver and his

⁷ See Application in Support of *Ex Parte* Pre-Indictment Restraining Order, *United States v. Dreier*, M18-981, Dec. 24, 2008 ("Application for Seizure Order"), attached as Exhibit 2; *Ex Parte* Pre-Indictment Restraining Order and Seizure Warrants, *United States v. Dreier*, M18-981, Dec. 24, 2008 ("Seizure Order"), attached as Exhibit 3; Consent Order for Extension of Pre-Indictment Restraining Order, *United States v. Dreier*, M18-981, Jan. 12, 2009 ("Consent Order"), attached as Exhibit 4; and Indictment, *United States v. Dreier*, 09 Cr. 085 (JSR), Jan. 29, 2009, attached as Exhibit 5, all of which address the government's proposed forfeiture of assets.

counsel also interviewed Marc Dreier⁸ and worked together with the U.S. Attorney's Office, the SEC, and dozens of Dreier LLP attorneys and employees to locate and safeguard existing assets. The Receiver's efforts have resulted in the safeguarding of more than \$100 million in assets. As a general matter, the assets recovered fall into the following categories.

A. Bank Accounts

The Receiver sought to locate and identify all bank accounts controlled by Marc Dreier, including bank accounts in the name of Dreier LLP and accounts of entities that Dreier created for particular purposes, such as the purchase and maintenance of real estate, investments, and luxury items. The Receiver located new bank accounts by tracing funds from known accounts to new accounts, by interviewing Dreier and his employees, and by reviewing Dreier's mail. Upon locating accounts, the Receiver sought to: (1) ensure that all bank accounts under Dreier's control were frozen; (2) understand how Dreier used particular bank accounts in furtherance of his frauds; (3) identify a possible source of liquid funds to draw upon for use in securing other assets; and (4) preserve the accounts for ultimate disposition to victims and creditors. (A list of all the bank accounts identified to date is attached as Exhibit 17.)

All told, the Receiver's review included hundreds of bank statements covering at least thirty-three different accounts. For reasons discussed more fully below,

⁸ The interviews with Marc Dreier took place with his consent and in the presence of his counsel. By and large, Dreier—who at the time was asking that he be released on bail—was responsive to questions posed by the Receiver and the Receiver's counsel. Dreier also pointed the Receiver to certain documents stored in his office in New York that were helpful in the Receiver's analysis. Dreier also spent time looking at account statements with Receiver's counsel to aid in the reconstruction of the disposition of note proceeds.

the Receiver and his counsel have not themselves undertaken—or engaged experts to undertake—a thorough forensic analysis of the financial affairs of Marc Dreier or his law firm. Given the enormous scope of the frauds, the intermingling of the financial affairs of Dreier and his law firms, the volume and frequency of the transfers among dozens of accounts, and the extensive time period involved, the Receiver and his counsel quickly concluded that an exhaustive accounting of Marc Dreier’s financial dealings would be extremely expensive and would take months to complete. Even if the resources for such an analysis were available to us—and they are not⁹—Dreier’s financial dealings were extraordinarily complex, and it would have been impossible to complete a comprehensive analysis in the time allotted for completion of this Report.

Nonetheless, the Receiver has developed a basic understanding of how Dreier used various accounts to perpetrate and spend the proceeds of his frauds. Two accounts in particular figure prominently in the analysis: First, the “Dreier LLP Attorney Trust Account” bearing J.P. Morgan Chase account number 36502055966 (the “5966 Account”) was used to receive all (or substantially all) of the proceeds of Dreier’s sales of fictitious notes.¹⁰ That account also held funds deposited by or for the benefit of clients, such as escrow funds for transaction closings and funds collected on behalf of the creditors of bankrupt entities. The second account, a “Dreier LLP Operating Account” bearing J.P. Morgan Chase account number 91391480465 (the “0465 Account”), was the

⁹ The Receiver’s work on this matter was hampered from the outset by an almost complete lack of liquid and untainted funds to finance the Receivership and pay for essential services. Given that Dreier had enormous debts (and almost no liquidity) at the time of his arrest, the Receiver was forced to negotiate with vendors and creditors in order to pay even the most necessary and ordinary expenses.

¹⁰ This account was originally called the “Dreier LLP Escrow Account.” Its name was changed in May 2008.

recipient of many fraud proceeds by way of the 5966 Account. The 0465 Account was also the recipient of accounts receivable funds received by Dreier LLP. Once fraud proceeds were moved to the 0465 Account, they were instantly commingled with funds received in the course of the legitimate operations of Dreier LLP. Many of the proceeds of Dreier's frauds were spent via payments directly from these two accounts.

The 5966 (Attorney Trust) Account. Between 2004 and 2008—the time period that became the focus of our review—Dreier received hundreds of millions of dollars from the sale of fictitious securities. Because the 5966 Account was the recipient of the payments for Dreier's false instruments, Receiver's counsel spent a great deal of time tracing the flow of funds into and out of that account.

The analysis shows that between January 2004 and December of 2008, the 5966 Account received approximately \$670,000,000 in payments from purchasers of false notes.¹¹ Broadly speaking (and through a multitude of different accounts), those proceeds were spent in one of three ways: (1) to “fund” the ongoing *Ponzi* scheme by making payments of principal and interest to prior purchasers of false notes; (2) to finance an increasingly lavish lifestyle that included millions of dollars in artwork, beachfront homes on both coasts, and an \$18.5 million yacht; and (3) to fund the operations of Dreier LLP and its related entities, which despite appearances of profitability, including rapid growth and new construction, were in fact losing enormous amounts of money.

The 0465 (Operating) Account. Funds deposited into the 0465 Account came not only from ordinary client payments of fees and disbursements, but also from the

¹¹ A rough calculation of the amount of money generated by the sale of phony notes and the disposition of those funds can be found *infra*, Section III.

stolen funds deposited into the 5966 Account. As Dreier LLP's day-to-day operating account, the 0465 Account was used for thousands and thousands of transactions over the relevant time period, including the payment of routine vendor invoices, payroll, rent, and disbursements for client matters at the firm. It appears that funds derived from the sale of fictitious notes were regularly used to fund ordinary (and extraordinary) law firm expenses.

Because of the enormous volume of transactions in the 0465 Account, Receiver's counsel was not able to conduct a forensic audit of all payments out of and in to that account. However, counsel did review 0465 Account statements in an attempt to identify large, unusual, or recurring expenses, and to look for indications of other assets or accounts not otherwise known to us. Based on this review, we learned that the 0465 Account was used, among other things, to purchase enormous amounts of art; to make payments to Dreier's brother, Mitchell Dreier, in the amount of \$50,000 per month; to pay alimony to his ex-wife, Elisa Dreier; and to make payments on Dreier private homes, including an Upper East Side apartment and adjoining beach-front properties in the Hamptons.

The MEA Properties Account. Although less central to the fraud than the 5966 Account or the 0465 Account, one other account bears specific mention, if only because it contains the only substantial known liquid remnants of Dreier's frauds. As of the date of this Report, that account, held in the name of MEA Properties LLC and bearing Wachovia Bank account number 2000029760358 (the "MEA Account"), contained a balance of approximately \$11.5 million. By order dated January 12, 2009,

that account was ordered seized and transferred to the United States Marshals Service's Seized Assets Fund. (*See* Ex. 4 (Consent Order) at (1)(b)(1).)

MEA Properties is a Delaware limited liability company established by Marc Dreier and two others in connection with their purchase of planned residential properties on the island of Anguilla.¹² For many years, the MEA Account served only as the source of funds used to make payments to the developer of the properties. Then, on November 4, 2008, as Dreier's frauds began to unravel, Dreier wired \$33,416,052 from the 5966 Account to the MEA Account so that, among other things, he would have access to funds not held in a Dreier LLP account if problems arose. At the time of the transfer to the MEA Account, the funds in the 5966 Account consisted primarily of \$83,600,000 Dreier received on October 24, 2008, from his most recent sale of a fictitious note.¹³

Records reveal that approximately \$15 million was transferred back out of the MEA Account and into the 5966 Account on November 17, 2008, \$12 million of which was used to make up for a shortfall in client escrow funds due to be paid out in short order. That shortfall can likely be attributed to Dreier's prior theft of the client's escrow money for other reasons, including the repayment of previous note fraud victims or the purchase of luxury items.¹⁴ Throughout November, and apparently in desperate

¹² According to Dreier, the name "MEA" is based on the first initial of the first name of each of the original investors: Marc, Erinch, and Andrew.

¹³ On October 29, 2008, the 5966 Account also received an additional deposit of \$13.5 million from another fraud victim. That victim requested and received the return of those funds on November 4, 2008.

¹⁴ Tracing the precise manner in which this client's escrow funds were stolen, and reconstructing the disposition of the stolen funds, will require detailed analysis of records and transactions that the Receiver has not undertaken. The Receiver has been in communication with new counsel for the client, and has received a subpoena from

need of cash, Dreier made additional transfers totaling \$16 million from the MEA Account to various Dreier LLP accounts, leaving approximately \$2 million in the MEA Account on December 2, 2008, the date of Dreier's arrest in Canada. While under arrest, and in the course of a telephone call made from a Canadian jail, Dreier directed that \$10 million be re-transferred from the 5966 Account to the MEA Account, leaving a balance of \$11,499,949.35 in the MEA Account when the "music stopped" and the account was frozen on December 4, 2008.¹⁵

The MEA Account transfers illustrate the difficulties that will be faced in addressing what are likely to be competing claims to any particular dollar's worth of remaining assets. In just over one month, the funds that ultimately remained in the MEA Account—which were traceable to the proceeds of a sale of phony notes—were transferred to the MEA Account, sent to an escrow account in an attempt to cover a shortfall in stolen client funds, and then returned to the MEA Account. Thus, while the Receiver clearly views the funds sitting in the MEA Account as stolen money, it is not immediately clear whether the funds should be returned to victims of the sale of notes, to clients who had funds stolen from escrow accounts, or some combination of both.¹⁶

that counsel so that relevant records in the Receiver's possession may be transferred to the client's attorneys.

¹⁵ On the same day, Dreier had Wachovia issue a bank check on the MEA Account for \$500,000. The bank check was given to Dreier's Canadian counsel, who used it to pay Dreier's Canadian bail and his legal expenses in both Canada and the United States.

¹⁶ Because the money in the MEA Account was so clearly tainted, the Receiver decided that it would be inappropriate to make disbursements using those funds without approval from a court.

Apart from the MEA Account funds described above, Dreier appeared to have very little cash left at the time of his arrest.¹⁷ Instead, the facts suggest that as of September or October 2008, Dreier had largely run through the cash under his control and was relying on additional sales of fictitious notes to pay overdue bills, replenish stolen escrow funds, and maintain the extravagant lifestyle that his crimes had made possible. At the time of his arrest, Dreier was in arrears on everything from payments to the crew of his yacht to mundane firm expenses like car service and off-site storage. The absence of available cash may explain Dreier's desperate attempts to sell additional notes in Canada.

B. Art Collection

Marc Dreier maintained an extensive collection of fine art. The commingling of Dreier's personal and business finances, and the overlap of his licit and illicit dealings, makes it difficult to identify the particular source of funds used for the purchase of any particular work of art. It is clear, however, that Dreier used enormous amounts of stolen funds to purchase a considerable collection of paintings, photographs, prints, and sculptures. While some were displayed at his law firm, the most valuable pieces were kept in his homes.¹⁸ The purchase price of all of his artwork is believed to total approximately \$39 million.

¹⁷ There is one other account at Wachovia in the name of Dreier LLP that contained \$15,500,000 at the time of the asset freeze. That account, however, was a restricted access account in which funds were held as cash collateral for a standby letter of credit for the benefit of Dreier LLP's landlord at 499 Park Avenue. Although Dreier could withdraw the interest earned on the \$15.5 million, he did not otherwise have access to cash in that account.

¹⁸ Fifteen specific pieces of Dreier's collection (amounting to roughly 90% of the collection's total value) were pledged as security to the victim of Dreier's latest sale

the artwork required a review of both Dreier's inventory and voluminous wire transfer records, invoices, and third party documents, as well as conversations with Dreier's art buyer (by way of her attorney) and with Dreier himself.

Despite these impediments, the Receiver set out to identify, locate, and safeguard Dreier's artwork, which we believed (and have now confirmed) was purchased in large part with stolen funds. Through those efforts, the Receiver has secured art worth nearly \$39 million from four law firm offices and three residences.²⁰ Following the Receiver's location and identification of the artwork, physical recovery and storage was performed (under the Receiver's supervision) by Cadogan Tate Fine Art, a professional art moving and storage firm. Cadogan Tate removed art from all seven locations,

²⁰ The Receiver was unable to locate a handful of the more than 300 pieces of art listed on Dreier's inventory. "Missing" artwork includes three pieces with a total purchase price of \$12,800 listed as being hung in Dreier's Hamptons homes, two photographs of unknown value, and three pieces of art with a total purchase price of approximately \$8,950 listed as being stored or hung at Dreier LLP's New York office. In each case, despite diligent efforts, the Receiver and his counsel have been unable to locate the missing pieces. The Receiver does not know whether those pieces were improperly recorded on Dreier's inventories, or whether they are simply missing.

The Receiver was also unable to safeguard a Picasso sketch worth an estimated \$35,000 that was last seen in Dreier's Manhattan apartment in November 2008. On December 11, 2008, after Dreier's arrest, Dreier's ex-wife, Elisa Dreier, filed a security interest in the sketch. Ms. Dreier's counsel has told Receiver's counsel that Ms. Dreier is in possession of the sketch and that she claims title to it under the terms of her separation from Marc Dreier.

The Receiver was also unable to arrange for the removal and storage of a few pieces of art that remain where they were originally displayed, although all of those pieces remain secure. One, a Dale Chihuly wall installation made of glass, remains on the wall of Dreier's apartment; it could not be easily removed on account of its size, composition, and placement. Another is a large bronze sculpture by Tom Otterness called "*Princess with Magic Fish*," purchased for \$85,000, which is permanently installed at one of Dreier's Hamptons homes. In addition, Brian Buckley's "*Circle*," listed as being hung in Dreier's Hamptons home and reported to be worth \$4,650, was inadvertently not collected, but remains secure in that house.

prepared it for transportation, and catalogued it with photographs and a description of each piece. The artwork was then moved to secure storage locations specially designed to store fine art.²¹

Based on the Receiver's investigation, and with the few exceptions noted in footnote 20 above, we believe we have successfully identified and accounted for substantially all of the artwork formerly in Dreier's possession. (A copy of the art inventory is attached as Exhibit 18.)²² Based on information provided by the Receiver, the United States Attorney's Office has listed the artwork in forfeiture allegations contained in Dreier's indictment. (See Ex. 5 (Indictment) at 16-25.) The United States Marshals Service is in the process of seizing the tangible assets listed in the indictment.

C. Real Estate

Marc Dreier owns several residences, including an apartment in Manhattan and several properties in the Hamptons. (A list of Marc Dreier's real estate is attached as Exhibit 19.) The evidence, including Dreier's statements to the Receiver and his counsel, indicates that these residences were purchased in large part through the use of funds received from the sale of fictitious notes.

²¹ As described in footnote 18, one of the victims of Dreier's note frauds has asserted an interest in fifteen pieces of artwork (valued at more than \$34,000,000) that were hung in Dreier's Manhattan apartment. Because this victim was understandably interested in safeguarding that art, and because the Receiver had no funds to pay for the art storage, Receiver's counsel arranged to have that victim fund the removal and storage of all of the artwork contained in Dreier's Manhattan apartment. Though transportation and storage fees were paid by the victim, the artwork remained under the control of the Receiver.

²² Although substantial effort has been made to ensure that the art inventory is accurate as possible, as Receiver's counsel works with the government and private parties, this inventory is continuously being updated.

The Manhattan Apartment. Dreier's apartment on Manhattan's Upper East Side is currently occupied by Dreier and is available to Dreier's children, though they are not in daily residence.²³ The apartment was purchased in 2007 for \$10,425,000, and there is a mortgage on the property for \$5,000,000 plus interest and fees. The mortgage was obtained later, at a time when Dreier presumably needed to generate cash to fund his *Ponzi* scheme. The mortgage was taken out by "MSD Beacon Court LLC," an entity Dreier controlled until his arrest. The apartment is the subject of forfeiture allegations contained in Dreier's indictment. (*See Ex. 5 (Indictment)* at 15.)

The Hamptons Properties. Dreier also owns three properties in the Hamptons. Two are neighboring beachfront properties, located in East Quogue, New York (town of Southampton). Another property, in Westhampton, New York (also in the town of Southampton), is held in the name of both Marc Dreier and Elisa Dreier. The first East Quogue home was purchased in 2004 for \$8,925,000. The second, next door, was purchased the following year for \$2,700,000. The Receiver has been in contact with real estate agents in the Hamptons, who advise that these two properties could be sold together, and that the sale could generate \$12.5 million or more. The Westhampton property was purchased for \$739,375 in 1989. The house is in disrepair, but the land on which the house sits is well-located and valuable. There are mortgages on all three properties totaling \$4,382,005, as well as what appears to be a \$550,000 home equity line of credit on the Westhampton home.

²³ Dreier's son is a college student who spends time at Dreier's homes in Manhattan and in the Hamptons. Dreier's daughter is a high school student who lives with her mother in a separate Manhattan residence.

Each of these houses is the subject of forfeiture allegations contained in Dreier's indictment. (*Id.*) The two East Quogue properties were recently seized by the United States Marshals Service. Prior to their seizure, for nearly two months, Receiver's counsel arranged for each of the Hamptons properties to be secured and maintained.

The ownership of each of the various Hamptons properties is disputed by members of the Dreier family. While a recent title search shows that title to the adjoining Quogue homes is in Dreier's name (*see* Title Reports, attached as Exhibits 20 & 21), Dreier claims to have transferred title to those properties to his son in October 2008, shortly before his arrest. Dreier claims that this transfer was made via documents that purport to transfer all the shares of two limited liability companies that in turn hold title to the properties. (Copies of those purported transfer documents are attached as Exhibit 22.) At the time of the purported transfer, however, those entities did not in fact hold title to the properties. It therefore appears that no transfer could have occurred. In any event, the bona fides of the claimed transfer to Dreier's son remain to be adjudicated; the Receiver did not accept at face value Dreier's account of the circumstances.²⁴

Separately, Dreier's ex-wife, Elisa Dreier, is still listed in public records as a co-owner of the Westhampton property along with Marc Dreier. Receiver's counsel understands that, pursuant to their divorce settlement, Marc Dreier alone owns the property. The Receiver has not seen that settlement, and expresses no opinion on this matter. Adjudication of the ownership of the Hamptons properties will likely occur in the context of Dreier's criminal case.

²⁴ Dreier claimed to have transferred the Hamptons properties to his son pursuant to his son's earlier promise to live with his father.

Temenos Development Property in Anguilla. As described, *supra*, Section II.A, Dreier invested in two parcels of property under development in Anguilla by way of MEA Properties LLC, an entity he controlled, but that also had two other investors. Dreier and his co-investors made several scheduled payments to the developer, but apparently have missed one or more payments due in the past year. To date, those properties remain unfinished. The Receiver has made contact with the developer of the property in an effort to preserve Dreier's interests in the investment properties, but has not been able to obtain detailed information on their status.

The Santa Monica Apartment. In addition to his homes in New York, Dreier also rented a 2200-square-foot beachfront apartment in Santa Monica, California. The rent on that property was \$21,000 per month. The Receiver arranged to have the contents of the apartment moved into a storage facility, where they remain. The apartment has now been returned to the landlord.

D. Yacht

In 2007, Dreier used \$18,307,000 in proceeds from the sale of a fake note to purchase a 37-meter Heesen Motor Yacht known as *Lady Seascap*. *Lady Seascap*, which is one of only ten of its kind in the world, is formally owned by Lady Seascap Ltd.,²⁵ an entity that Dreier controlled until his arrest. The yacht has five cabins and accommodates twelve guests, and is luxuriously equipped with flat screen televisions and

²⁵ There is another Dreier-controlled entity, Four Winds Holdings LLC, which is also affiliated with the yacht. That entity appears to have been formed to hold Dreier's interest in a different yacht, which he subsequently sold. More recently, certain yacht payments for the crew and for supplies were made using a Four Winds Holdings credit card and a Four Winds bank account at J.P. Morgan Chase, account number 360502230065. The credit card was cancelled in December at the Receiver's direction; the bank account was ordered seized and liquidated pursuant to the Consent Order (*see* Ex. 4 at 2).

a wine collection. Although he originally purchased the yacht with cash, Dreier later took out a \$10,680,000 mortgage on the yacht at Wachovia Bank.²⁶ Wachovia is seeking to recover the value of its mortgage.

The substantial value of the yacht—coupled with the fact that it was located outside the United States and not immediately subject to the jurisdiction of the Receiver or the Court—made securing its return another one of the Receiver’s top priorities. Soon after being appointed, the Receiver learned that the yacht was located at Port de Plaisance in Cole Bay, St. Maarten. Efforts to secure the vessel’s return, however, were complicated by the need to obtain the cooperation of the yacht’s captain and crew, who had not been paid in two months, and by the fact that the vessel was low on fuel and in substantial arrears on docking fees. Because the Receiver had no access to liquid funds, he worked with Wachovia Bank (which held a lien on the yacht based on the mortgage) to fund the substantial expenses required to secure the return of the yacht.

As part of an agreement brokered by the Receiver between the crew of the yacht, Wachovia Bank, and the United States Attorney’s Office, the Receiver arranged for Wachovia to provide the funds necessary to re-insure the yacht, pay the captain and crew, pay for supplies, fuel, docking fees, and repatriation fees, and pay for airplane tickets home for crew members upon *Lady Seascapes*’s arrival in Fort Lauderdale. Receiver’s counsel further arranged for employees of FTI Consulting to escort the vessel

²⁶ Dreier may have used at least a portion of the proceeds of the mortgage on the yacht to pay for certain pieces of art. Dreier purchased Agnes Martin’s “*Loving Love*,” an untitled Keith Haring painting from 1982, and Andy Warhol’s four “*Jackie*” paintings on the same day that he received the mortgage proceeds and the next day, and from accounts into which loan proceeds were deposited.

on its trip from St. Maarten to Florida to ensure the yacht arrived safely in the United States.

Lady Seascap is now docked in Fort Lauderdale, Florida. The captain and engineer, who are necessary to ensure that the yacht is appropriately maintained, agreed to remain on the vessel until it is either sold or seized by the government. Other crew members have been discharged. Wachovia has continued to pay necessary expenses, such as docking fees, and has authorized payment for the repair of the fuel tank, which was deemed necessary for the eventual sale of the yacht. *Lady Seascap*, together with her yacht tender and two waverunners, are listed as property to be forfeited in the indictment of Marc Dreier, and they were authorized to be seized by the United States pursuant to Judge Rakoff's preindictment seizure order of December 29. Recently, the USAO and Wachovia have agreed that the yacht will not be seized, but will instead be transferred to Wachovia's custody so that it can be sold at auction.²⁷ After repayment of Wachovia's mortgage on the yacht, any remaining proceeds of the sale will be forfeited to the government pursuant to the Seizure Order.

E. Automobiles²⁸

The Receiver has also secured five automobiles owned by Dreier, three of which were held in his name. Two of them—a Mercedes SL500 convertible roadster and a BMW 650i coupe—were until recently being stored for the Receiver in a locked garage. After locating them, the Receiver confiscated the registration, license plates, and

²⁷ Because Dreier has not yet been convicted of his alleged crimes, his consent is required for this sale. As of the time of filing of this Report, Dreier had not yet given his consent.

²⁸ A list of all Dreier vehicles identified in the course of our work, including the yacht and the automobiles, is attached as Exhibit 23.

keys to ensure they would not be moved. A third vehicle, an Aston Martin DB9, was located by consultants retained by the Receiver and was stored until recently at a garage in Santa Monica, California, under a new storage contract entered into by the Receiver. All three vehicles have recently been seized by the United States Marshals Service.

There are also two vehicles, one owned and one leased, held in the name of Dreier LLP. One is a Mercedes S500 that was found in a garage in New York City. That vehicle also has been seized by the Marshals Service. Prior to the vehicle's seizure, Receiver's counsel had several discussions with the owner of the storage garage in order to prevent the vehicle from being sold at auction to pay for past due storage fees.

The final vehicle is a leased Mercedes R500 that was being used by a former Marc Dreier business associate. That associate was located on the West Coast; Receiver's counsel found him via telephone and internet research. Because the lease on that car was due to expire in April 2009, counsel made arrangements with Mercedes-Benz to return the car to the dealership from which it was leased and then arranged for a consultant in California to collect and deliver the automobile.

In each case the Receiver identified, located and secured the vehicles, and then either returned them to avoid further payments or made them available to the Marshals Service for seizure. The approximate value of the four recovered vehicles owned by either Dreier or Dreier LLP is between \$250,000 and \$300,000. The Aston Martin was financed with a loan of \$202,043.29 from Galpin Jaguar Lincoln Mercury, but the Receiver has been unable to ascertain the amount that remains outstanding on that loan. We are unaware of any other loans on any of the other vehicles.

F. Restaurant

Marc Dreier holds a majority interest in CP3, LP, a company that owns Tengu Santa Monica ("Tengu"), a now-defunct Asian fusion/sushi restaurant.²⁹ Tengu operated out of leased premises at Suite 120, 1541 Ocean Avenue, Santa Monica, California. The restaurant, which was funded almost exclusively by Dreier, immediately closed when its other owners learned of his arrest. Receiver's counsel has communicated with the former restaurant manager, with other CP3 shareholders, and with Tengu's prior counsel in order to determine whether there was any value to be preserved in the restaurant. Receiver's counsel also met with the property manager and landlord and conducted an inspection of the premises. That inspection confirmed that there is very little of value to be salvaged from the restaurant. No valuable artwork, liquor, or equipment was located on the premises. This is unsurprising given the fact that Tengu was apparently a losing venture from the start, and that Dreier routinely injected funds into the restaurant from various Dreier LLP bank accounts.³⁰

The only item of any apparent potential value in the restaurant is the California state liquor license that expires in July 2009, which we have been told may be worth as much as \$100,000.³¹ The Receiver has not been able to confirm that estimate.

²⁹ This restaurant has no current affiliation with the Westwood, Los Angeles, Tengu Restaurant.

³⁰ In 2008 alone, at least \$365,000 was transferred from the 5966 Account to Tengu, and \$85,000 was transferred to the restaurant from a Dreier LLP Operating Account at Wachovia Bank.

³¹ The liquor license was not included in the Seizure Order, but Receiver's counsel has notified the United States Attorney's Office of its existence and potential value.

G. Investments and Brokerage Accounts

Receiver's counsel also took possession of certain stock certificates located in a safe at Dreier LLP's offices at 499 Park Avenue, New York, New York. The contents of the safe included shares of Axiom Management, Inc., YS Interactive Corp.,³² International Power Group Ltd., Avalon Capital Holdings, and Nortel Networks Corp. (A list of all the stock certificates taken from Dreier's offices at 499 Park is attached as Exhibit 24.) The value of these stocks is unknown, but is not likely to be substantial.³³

We also learned that Dreier LLP holds an investment—received in lieu of fees for work performed for a client—in a company called People Capital. The value of this investment is not known. Further, Marc Dreier paid at least \$250,000 for an investment in a start-up bio-diesel company in Argentina. The value of this investment is also unknown, but Dreier has told Receiver's counsel the venture likely folded without his continued financial backing.

The Receiver also learned of at least two brokerage accounts at Morgan Stanley that contain securities. One account is in the name of Marc S. Dreier. The

³² The shares of YS Interactive Corp. were likely obtained by way of an agreement between Dreier Stein Kahan Browne Woods George LLP ("DSK"), a California-based Dreier firm, and YS Interactive whereby DSK agreed to accept the shares in lieu of payment of certain fees. (See Letter Agreement between Dreier Stein Kahan Browne Woods George LLP and YS Interactive, June 30, 2008, attached as Exhibit 25.) That letter agreement granted DSK 102,738 shares of Series B Common Stock, but only 80,000 shares were recovered from the Dreier LLP safe.

³³ International Power stocks trade daily. Axiom Management and Avalon trade only infrequently. YS Interactive does not appear to be a publicly traded stock. Nortel Networks Corp. filed for Chapter 11 bankruptcy protection on January 14, 2009, so those shares are not likely to have significant value. See Ian Austen, *Nortel Seeks Bankruptcy Protection*, N.Y. Times, , Jan. 14, 2009, available at <http://www.nytimes.com/2009/01/15/technology/companies/15nortel.html>, attached as Exhibit 26.

second account is in the name of Armada Partners, LP.³⁴ Marc Dreier is the principal investor in Armada Partners, which was an investment vehicle run on his behalf. The book value of the stock held in that account exceeds \$200,000, but we have been advised that the stocks are highly illiquid. Dreier's Morgan Stanley account—which likewise contains relatively large holdings of illiquid stocks—is listed as an asset as to which forfeiture is being sought in the Indictment filed against Dreier.³⁵

H. Other Tangible Assets

In addition to the assets discussed above, the Receiver and his counsel identified the following additional assets through interviews with Marc Dreier and with the staff at Dreier LLP:

- Home furnishings purchased for over \$1.2 million for the Manhattan apartment, the Hamptons houses and the Santa Monica apartment. (*See* list of furnishings with purchase price, attached as Exhibit 27.) The resale value of those furnishings is unknown. The furnishings at the Santa Monica apartment have been stored. The furnishings at the Manhattan apartment and the Hamptons houses remain at those premises.
- Office furnishings and computer equipment in the various law offices in New York, Santa Monica, Century City, and Stamford. The resale value of those furnishings and equipment is unknown. Receiver's counsel is in the process of soliciting bids from liquidators for the California furniture, and has already received an estimate valuing the Santa Monica furniture at over \$20,000. Receiver's counsel will continue its efforts to obtain values for these furnishings.
- Two watches, worth approximately \$11,000, one of which Dreier believes he loaned to a business associate.

³⁴ These accounts are listed on the Bank Accounts chart attached as Exhibit 17.

³⁵ In order to generate liquidity, the Receiver has instructed Morgan Stanley to sell positions held in this brokerage account. As of January 31, 2009, those efforts have resulted in \$116,220 being converted to cash. Those proceeds remain in the Morgan Stanley account.

I. Law Firm Accounts Receivable and Work-in-Progress

Other than the real estate and tangible assets described above, Marc Dreier's principal asset consists of his interests in the accounts receivable ("AR") and work-in-progress ("WIP") of Dreier LLP and related entities; that is, in the fees those entities charge for their lawyers' time. The amounts involved are potentially substantial, but the collection and ultimate distribution of AR and WIP from the law firms presents enormous practical and legal challenges. As of December 15, 2008, total accounts receivable showing on the books for Dreier LLP and the Dreier affiliates totaled \$33,359,055.79. Total WIP was recorded as an additional \$64,456,085.23. (A summary of the AR and WIP totals for the various offices as of December 15 is attached as Exhibit 28.)

There are several indicators that large amounts of AR and WIP shown on the reports may not be collectable. First, a large portion of the receivables are significantly aged. In addition, and according to both Dreier and other Dreier LLP lawyers, the AR and WIP reports include amounts previously written off by Dreier partners and time accrued on contingency or other cases in which fees may never be recovered or may be recovered only in part.³⁶

Furthermore, for many matters, clients or Dreier lawyers attest that there are special fee arrangements involving premiums, discounts, caps on fees, or agreements as to write-offs that reduced fees, or that special payment arrangements permitted clients

³⁶ The Receiver has maintained records of contingency and partial contingency cases. The collection of fees from these cases, however, will present challenges. Agreements will have to be struck with successor counsel, and in any event cases have to be monitored so that the trustees are aware when they are resolved. Inevitably, there will be conflicting claims to those fees from the successor—and in some cases predecessor—firms handling those matters.

to make only partial payments until their cases were resolved. In most cases, there is no written record of these agreements. Finally, while Dreier is the sole equity owner of Dreier LLP and the related entities, individual matters were managed and fees collected by other Dreier lawyers, many of whom are no longer available to issue bills and collect the WIP and AR.

In order to safeguard these assets and maximize the likelihood of collection, the Receiver immediately issued a notice reminding all Dreier attorneys that all WIP and AR as of the time of their separation from the firms remained the property of the Dreier entities. (*See Receiver's Notice to Current and Former Employees of Dreier LLP and Related Entities at 2, attached as Exhibit 11.*) The Receiver also identified and hired a "skeleton crew" at Dreier LLP to manage the unwinding of the firm while collecting AR and WIP. That crew—described more fully in Section V.B., below—included several persons dedicated to billing and collecting work in progress and accounts receivable. The Receiver also requested payments from clients leaving a Dreier entity and wishing to take their files.

The Receiver's work with respect to WIP and AR was complicated by individual lawyers' needs to serve their clients in ongoing matters, and many of the lawyers leaving the firm of course sought to take clients with them. Having determined that the value of the AR and WIP was best preserved by working amicably with departing lawyers—and that practical and ethical considerations did not allow the Receiver to hold client files "hostage" to unpaid bills, particularly where the need for new counsel was precipitated by Dreier's arrest—the Receiver decided that even if a client balked at voluntary payment of its bills, he would not interfere with the orderly transfer of the

client or its files. The Receiver insisted that departing attorneys who wished to take a client (and the client's files) with them provide the Receiver with: (a) a letter from the client requesting the transfer; and (b) a letter from the attorney (or groups of attorneys) acknowledging the Receiver's right to existing AR and WIP. Many clients agreed to and did pay their bills, and most of those that did not pay immediately agreed to sign a letter acknowledging that they would pay their bills in the ordinary course of business.

Efforts to collect on unpaid WIP and AR for Dreier LLP are now being overseen by the Dreier LLP trustee. The Receiver has continued its efforts with respect to the WIP and AR of other Dreier-related entities by entering into agreements with those entities that allows the entities to pay approved expenses from AR while they continue to collect receivables and otherwise manage the orderly unwinding of those entities. The balance of AR collected after bills have been paid will be set aside and presumably distributed under the jurisdiction and at the direction of the bankruptcy court. The Receiver expects that additional work with respect to the collection of WIP and AR from Dreier-related entities will be undertaken by the soon-to-be appointed Marc Dreier trustee.

* * * * *

Since the inception of the Receivership, the Receiver has identified and secured well over \$100 million in assets, and has taken affirmative steps to secure substantial additional assets in the form of unbilled WIP and AR. This work was undertaken while the Receiver simultaneously assisted in the unwinding of the affairs of a large law firm, notwithstanding the imprisonment of the single person most familiar with the firm's overall operations and financial condition, as described more fully *infra*,

Section V.B. The fallout from Dreier's actions, including the loss of hundreds of jobs, the disruption of an untold number of client relationships, and the theft of client escrow funds, added to the complexity of the tasks at hand.

The most significant obstacle hindering the Receiver's work, however, was the virtually total lack of funds available to put to use in his work. In the absence of *any* substantial, unencumbered funds, the Receiver negotiated with representatives of victims, with creditors, and with the SEC and the United States Attorney's Office to safeguard assets, to arrange for some emergency funding, and to reach cooperative agreements where funding would be supplied by others. The Receiver is particularly indebted to a handful of consultants, employees, and vendors who worked efficiently and professionally with the Receiver based only on a handshake and the promise of future payment.

III.
DREIER'S RECEIPT AND DISPOSITION
OF PROCEEDS OF THE NOTE FRAUDS

As established by overwhelming documentary and other evidence, Marc Dreier was involved in a long-running and (until recently) successful *Ponzi* scheme dating back to at least 2004. The scheme featured the sale of more than eighty-five fake notes (sometimes sold in tranches) that purported to pay interest as high as 11.5 percent. The victims of the phony sales were primarily hedge funds and other large investors, although some smaller, individual investors also bought notes. The fake notes varied in amount, ranging from \$200,000 to \$60 million. Some notes were secured by other property; some were not.

All of the notes Dreier sold appeared to have been issued by legitimate and familiar businesses. Dreier sometimes told investors that he was offering the notes

on behalf of the alleged issuer of the notes. At other times, he told prospective victims that the notes were available at a discount because the original purchaser of the issuer's notes was willing to sell them at a discount in order to generate needed cash. As part of his scheme, Dreier falsified company documents and independent audit reports purporting to show the financial condition of the notes' issuers. In addition, he impersonated, or asked others to impersonate, representatives of the issuers. When deals closed, Dreier forged signatures of company executives on the notes themselves and on other deal documents. Fraud victims thus either entered into agreements that appeared to be countersigned by the original issuer, or, in some instances, with an intermediary purportedly assigning its interests in a note to the victim. (A list of the fraud victims—or in some cases prospective fraud victims or intermediaries—identified in our review of the relevant documents is attached as Exhibit 29.)³⁷

For the reasons described above, the Receiver did not undertake a forensic examination of Dreier's various bank accounts. Nevertheless, in order to ascertain whether large sums had gone "missing," the Receiver and his counsel took steps to learn the basic operation of Dreier's scheme and to assemble a rough accounting of amounts received and spent by Dreier over the last four years. Our approach was not exact: it was necessarily based on rough estimates of money flows. Furthermore, it was based in large part on information that was checked by the Receiver but originally provided by Dreier, whose credibility obviously is suspect. Nevertheless, and subject to the limitations and

³⁷ The attached list was compiled by Receiver's counsel based on a review of documents found in Dreier LLP's offices. Counsel has not spoken with representatives of most of the listed entities to verify this list.

caveats inherent in the exercise, the Receiver was able to obtain a picture of Dreier's receipts and expenses that suggests no hidden "hoard" of cash.³⁸

Using account statements Receiver's counsel made available to him in jail, Dreier provided us with rough calculations of the amount of proceeds received from his sale of notes between 2004 and 2008 and their disposition. The following chart sets forth Dreier's estimates of the amounts received via the sale of notes ("Note Proceeds In") and the sum of amounts spent from those proceeds ("Note Proceeds Out"):³⁹

	Note Proceeds In	Note Proceeds Out
2004	36,000,000	52,642,039
2005	40,000,000	56,283,124
2006	170,000,000	147,499,134
2007	164,000,000	243,078,925
2008	292,475,000	287,435,407
Total	702,475,000	786,938,629

Dreier claimed that the Note Proceeds generally went to one of three places: (i) the repayment of principal and interest to note buyers, as well as note-related expenses;⁴⁰ (ii) personal expenditures; and (iii) amounts funneled to Dreier LLP and other Dreier-related entities to "subsidize" their operations. Dreier's detailed estimates of how

³⁸ One particular limitation is worth noting: We did not encounter (and Dreier did not volunteer) information about sources of income, legal or illegal, outside of Dreier LLP, the Related Entities, and the sale of fictitious notes. While we do not know whether Dreier had income from other sources, we cannot exclude it.

³⁹ The fact that "Note Proceeds In" often exceeds "Note Proceeds Out" is likely explained by a number of factors, not least of which was the necessity for Dreier to make interest payments on outstanding notes. Apparently, and in common with all *Ponzi* schemes, early note purchasers were repaid in full for both their investment and the interest earned thereon.

⁴⁰ This number includes related payments, including payments to so-called "finders" that identified potential investors for Dreier. Receiver's counsel also noted, but did not include, payments to lawyers that reviewed the deals.

Note Proceeds were spent are contained in a chart titled, "Dreier's Descriptions of the Activity in the 5966 Account, which is attached as Exhibit 30.

In the chart as Exhibit 30, the term "Personal Payments" refers to payments made *directly* out of the 5966 Account for personal expenditures, including payments for art, for his investment in an Argentinean biodiesel project, and for payments made to keep Tengu afloat. By Dreier's estimation, \$29,372,646 was spent directly from the 5966 Account for these items. Likewise, "Direct Law Firm Expenses" refers to payments made *directly* out of the 5966 Account to pay for firm expenses. Dreier estimated that \$2,903,403 was spent on law firm expenses straight from the 5966 Account. "Other Dreier Accounts" refers to sums sent from the 5966 Account to other Dreier or Dreier LLP accounts. The total amount of 5966 Account money directed to these other Dreier or Dreier LLP accounts amounts to approximately \$312,053,486.⁴¹ Most of those funds, according to Dreier, were then spent either for personal payments or law firm expenses. Receiver's counsel has verified that significant sums were transferred from the 5966 Account to the 0465 (Operating) Account at Dreier LLP. The remaining categories on Dreier's chart all relate to repayment of principal and interest on the notes themselves.

The Receiver's own research generally corroborates Dreier's description of the amounts received through the sale of notes. Our calculation shows that amounts deposited into the 5966 Account from the sale of notes amounted to \$670,000,000 as

⁴¹ Receiver's counsel has examined these transfers and has not identified any large sums transferred to unrestrained accounts. Counsel also has reviewed the 0465 Account Statements, as detailed *supra*, Section II.A.

compared to Dreier's estimate of \$702,000,000.⁴² The Receiver also sought to verify Dreier's description of how Note Proceeds were spent in order to identify assets not previously disclosed and to determine whether Dreier had (or had access to) significant amounts of funds that had not been frozen or seized. Our calculation of proceeds spent, while harder to perform and subject to greater error, likewise roughly corroborated Dreier's calculation.

With respect to amounts paid back to note purchasers as principal or interest, our calculations showed that Dreier paid approximately \$430 million as compared to the \$428 million estimated by Dreier. Amounts that Dreier claimed to spend on personal items directly from the 5966 Account, including real estate, artwork, and other personal property, as well as amounts transferred to other Dreier accounts, also appear to be roughly corroborated by our review of the relevant records, at least in terms of order of magnitude.⁴³

Finally, and given issues relating to Dreier's bail application, the Receiver took special care to examine and inquire about any substantial transfers of money

⁴² Given the passage of time, the magnitude of the amounts involved, and the limited resources available to the Receiver, we do not view this discrepancy as indicative of unexplained "missing" funds. We note, for example, that the difference could be explained by the different resources available to Marc Dreier and Receiver's counsel in arriving at their calculations: Receiver's counsel had access to certain documents not available to Dreier in prison, while Dreier had the benefit of his personal recollection of many transactions and events not specifically described in bank statements. In any event, and as described more fully below, our review of the bank records has not provided any indication of the existence of large and unexplained transfers of funds.

⁴³ Among the personal expenditures made was an investment of approximately \$15 million Dreier entrusted to an investment manager through a venture called Armada Partners LP. According to Dreier, most of this money was lost in highly speculative trading. Dreier claims to have been misled about these investments.

offshore. All such transfers from the accounts we examined appear to be either legitimate, client-related transfers to internationally-based clients or vendors, payments to note entities based overseas, or payments related to an investment in a biodiesel project in Argentina, the bona fides of which we have not sought to ascertain. The Receiver has not found any large, unexplained direct transfers of funds to offshore entities or accounts.

A forensic accounting of Dreier's finances will certainly provide additional detail about the sources, flows and disposition of amounts stolen from note fraud victims and clients. It may well reveal substantial receipts and expenses not apparent from the face of the documents available to us. Until then, and based on our own limited efforts, the records available to us provide no indication of any "hoard of cash" or other collection of assets that remains under Dreier's control.

IV.

LIST OF CREDITORS

In the Court's Order, the Receiver was asked to provide a list of secured creditors and financial institutions with an interest in the receivership assets. (Order ¶ X, at 17-18). That list is attached as Exhibit 31.⁴⁴

V.

SUMMARY OF RECEIVER'S OTHER WORK

Immediately upon appointment, the Receiver retained Paul, Weiss, Rifkind, Wharton & Garrison LLP, the law firm of which he is a member, to represent

⁴⁴ For the Court's information, we also attach as Exhibit 32 a list of Dreier LLP's 30 largest unsecured creditors, which was submitted to the Dreier LLP bankruptcy court.

him with respect to all Receivership matters.⁴⁵ Much of Receiver's counsel's work over the last two and a half months consisted of the collection and preservation of the assets described in Section I of this report. In addition, however, and as part of those efforts, the Receiver and his counsel performed a wide variety of related tasks. Broadly speaking, these tasks fell into the following categories.

A. Information Gathering and Cooperation with Employees, Victims, Clients, the SEC, the USAO and Trustee for Dreier LLP

In order to map Dreier's expenditures and to identify existing assets, the Receiver and his counsel spent substantial time and effort reviewing documents, accounts, and files belonging to Marc Dreier and Dreier LLP. The Receiver and his counsel also conducted four separate interviews of Marc Dreier at the MCC and conferred regularly with employees of the firm and with counsel for victims, clients, the SEC, the USAO, and the bankruptcy trustee for Dreier LLP.

As part of that effort, the Receiver and his counsel collected and reviewed more than twenty-seven large boxes of documents reflecting Dreier's sales of fictitious notes. These documents, many of which were organized in binders according to the "note" that Dreier purported to sell, contained information regarding the source and disposition of funds generated by Dreier's note sales.

⁴⁵ The Receiver was assisted primarily by two partners, one senior associate, and four junior associates. In addition, lawyers from Paul, Weiss's bankruptcy department researched, drafted, and filed the Dreier LLP bankruptcy petition. Other lawyers were consulted for their particular areas of expertise, including professional ethics (for matters relating to client files and professional malpractice), transactional law (to safeguard Dreier LLP's interests in People Capital Inc.), and employment law (for issues relating to the rights of Dreier LLP's displaced lawyers and staff).

Until recently—when Receiver’s counsel agreed to provide all of the documents they had gathered to the Dreier LLP trustee, while preserving access to the documents for the Receiver and for the soon-to-be-appointed bankruptcy trustee for Marc S. Dreier—the Receiver and his counsel served as an information and document “clearinghouse.” As a result, Receiver’s counsel was called upon frequently to provide information to employees, victims, clients, and creditors. Receiver’s counsel exercised the same function in responding to subpoenas, document requests, and other requests for information from the USAO and the SEC.

The volume and magnitude of requests for information and documents was enormous. In the days and weeks following Dreier’s arrest, the Receiver and his counsel received dozens of inquiries a day from Dreier employees, vendors, clients, and creditors regarding employment benefits, pending cases, access to files, escrow accounts, billing issues, and conflicts issues, among others. The following categories occupied much of the day to day work:

**(i) Transition of Clients to New Counsel
and Return of Client Files**

One of the Receiver’s most pressing tasks was to minimize the enormous disruption that Dreier’s arrest caused to firm attorneys and clients. Because lawyers and clients began leaving the firm almost instantly upon word of Dreier’s arrest, and because helping to achieve a smooth transition for clients was seen as both necessary to preserving receivables and as otherwise fair and proper, the Receiver adopted a protocol that sought to make this transition as painless as possible, permitting former Dreier LLP attorneys to “borrow” files to assist clients with the transition. Where possible, the Receiver sought payment of outstanding invoices. Where payment was disputed, the

Receiver sought and obtained acknowledgment from clients and attorneys that fees owed prior to termination of the representation by Dreier LLP remained the property of Dreier LLP. In overseeing this process, the Receiver and his counsel negotiated with dozens of Dreier attorneys and clients, and kept copies of correspondence with each of them that can be used by the Dreier LLP trustee to continue the task of collecting WIP and AR.

(ii) Responses to Creditor Inquiries and Demands

The Receiver also received numerous inquiries and demands from law firm vendors that had not been paid, often in months.⁴⁶ Prior to the filing of the Dreier LLP bankruptcy, Receiver's counsel responded to these inquiries and sought to prevent litigation that would consume unnecessary resources. Since the filing, claims have been directed to the bankruptcy process. Given Dreier's very public arrest—and not surprisingly, given the size of the firm's operations—these demands came from dozens of vendors, and continue to arrive to this day.

(iii) Investigation Regarding Escrow Funds

Almost immediately upon being appointed, the Receiver learned that there were tens of millions of dollars missing from client escrow funds. Upon an examination of the relevant escrow accounts—which Dreier recorded in separate books and over which he exercised exclusive authority—we learned that Dreier's commingling of funds extended to client funds purportedly held in escrow, but which he used like they were his own money.

⁴⁶ Some of the past-due bills, coupled with the absence of available cash, created particular challenges. For example, unpaid bills to Dreier LLP's off-site storage facility in many instances complicated the retrieval and return of client files. The same unpaid bills hampered access to firm books and records that were stored offsite, as records needed to be obtained through the very vendors and financial institutions to which debts were owed.

In order to understand, negotiate (and, where appropriate, litigate) claims to escrow funds, the Receiver closely examined Dreier LLP's escrow account statements, including statements for the 5966 Account described in detail *supra*, Section II.A.⁴⁷ The investigation revealed that rather than being segregated into dedicated accounts, many funds placed in escrow at Dreier LLP were moved into and out of the 5966 Account.⁴⁸

In response to specific inquiries from former Dreier LLP clients, Receiver's counsel undertook a number of individualized inquiries into the status of the clients' escrow funds. The manner in which client escrow funds entrusted to Dreier LLP were handled can be illustrated by way of a few examples:

- Certain clients of Dreier LLP were in the midst of acquiring two companies that buy and sell buttons and related trimming. Those clients' principals hired Dreier LLP to represent them on the deal, and deposited \$1.6 million in escrow in four payments over several months in 2008. The clients were under the impression that the funds were being deposited into a dedicated escrow account. In fact, however, the funds were simply wired into the same 5966 Account that received proceeds from the sale of fake notes. (Dreier has confirmed to us that an unspecified amount of "escrow funds" were deposited into the 5966 Account). When the clients, upon learning of Dreier's arrest, sought the return of the funds, they learned that the amounts they claimed far exceeded the amounts available in the Account. Although Dreier has indicated that he believed that he had authorized the return of those funds before his arrest, no transfer appears in the records.

⁴⁷ In addition to telephone and e-mail inquiries, Receiver's counsel also responded to a filing in this case in which a group of former Dreier LLP attorneys, who had withdrawn approximately three million dollars from a Dreier LLP trust account upon Dreier's arrest, moved before this Court for an order to show cause why they should not be permitted to release those funds to their client. Receiver's counsel did factual and legal research in preparation for the hearing on that issue, and also submitted a letter brief to the Court after the hearing.

⁴⁸ Relatively few clients had dedicated escrow accounts. Of these, some accounts evidence a shortfall, while others appear to be intact.

- Dreier LLP also represented the official committee of unsecured creditors of a bankrupt company, and received a payment of approximately \$38.6 million for the benefit of those creditors. Although Dreier LLP had opened a dedicated sub-account to hold those funds, Dreier transferred almost all of this money to the 5966 Account. From there, that money was spent over time until it was completely gone. It appears that Dreier intended to use note frauds proceeds acquired in late October 2008 to replenish that client's money so he could distribute it in November as scheduled. As described *supra*, Section II.A., however, in the weeks leading up to his arrest, Dreier instead transferred those millions of dollars from the 5966 Account to the MEA Account to use as his rainy day fund. He later transferred a larger portion of that money back to the 5966 Account to pay the bankrupt company's creditors, but then spent some of the funds elsewhere and retransferred the remainder back to the MEA Account before it could be distributed. The creditors committee of that bankrupt company is now the largest unsecured creditor of the Dreier LLP estate.

While some escrowed funds were kept in dedicated accounts, many were not. The Receiver spent a significant amount of time evaluating and responding to client claims to escrow funds. More recently, the Dreier LLP trustee has worked with the Receiver, the SEC, and the USAO to identify money that was clearly identifiable to a particular client, and has requested permission to return approximately \$3.7 million to clients. (See Motion of Trustee for Order Pursuant to Sections 105 and 541 of the Bankruptcy Code Authorizing the Release of Trust Funds Determined Not To Be the Property of the Estate, *In re Dreier LLP*, 08-15051 (SMB), Feb. 10, 2009, attached as Exhibit 15.)

As noted above, we expect that many issues of fact and law relating to the source and ultimate entitlement to remaining funds (which are far less than what was supposed to have been kept in trust) will have to be decided by a court in the appropriate setting.

**(iv) Other Client Funds, Including
Settlement Proceeds and Retainers**

Another set of problems arose with respect to instances in which Dreier stole settlement funds that belonged to his clients. These problems emerged when, in the days and weeks following Dreier's arrest, Receiver's counsel was contacted by clients who claimed to be owed amounts as proceeds of settlements. One client, represented by Dreier personally, told us he was due a settlement of many millions of dollars. Upon examination, we learned that the settlement proceeds had been transferred into the 5966 Account, commingled with the proceeds of the note fraud, and spent by Dreier, most likely to make a payment related to his note fraud.⁴⁹

Similarly, another Dreier client believed that proceeds from her settlement were being paid to Marc Dreier by her adversary on a monthly basis, and that Dreier, after withdrawing his fee, forwarded payments to her. Concerned that there might be a delay in her receipt of the monthly payment, which she relies on to pay rent and other bills, she contacted the Receiver following news of Dreier's arrest. The Receiver has now learned that the settlement was paid to Dreier in full several years ago.

* * * * *

The inquiries and issues described above are only illustrative of the extent to which Dreier's conduct has created a "Gordian knot" involving employees, clients, victims, vendors, law enforcement officials, and ultimately the courts. Not surprisingly,

⁴⁹ The Receiver's preliminary investigation into this question also revealed that Dreier likely forged documents relating to the settlement. Among other things, the settlement papers signed by the adversary appear not to match the documents signed by Dreier's client. The Receiver also learned that Dreier repeatedly lied to his client about his receipt of the funds, stating that the settlement funds had not yet been paid when in fact they already had been wired to a Dreier LLP account, from which Dreier authorized their transfer for his benefit.

given the magnitude of the frauds and the complexity of Dreier's law firm affairs, the Receiver believes that the need to provide information and documents to different "constituencies" of victims, clients, and regulators is likely to continue for some time. The Receiver considers this an important and necessary role, and expects to assist the Dreier LLP trustee (and the soon-to-be appointed Marc S. Dreier trustee) as they continue to fulfill this essential function.

B. Administration of Dreier LLP and Related Entities

Marc Dreier was Dreier LLP's sole equity partner, and his arrest left the firm in near total disarray. Other Dreier lawyers, none of whom had the authority, the means, or the incentive to assume control over the firm, scrambled to save their practices and protect their clients.

Marc Dreier also was the only person authorized to sign checks and pay bills at Dreier LLP, and routine bills from essential vendors had been left unpaid for months. The firm had very little available cash, and incoming receivable payments were subject to a restraining order obtained by a lender.

In order to get a preliminary assessment of the situation, the Receiver and his counsel met with certain key members of the Dreier LLP staff immediately after the Receiver's appointment, including the controller, the director of operations, and a small group of Dreier LLP attorneys. As it became increasingly clear that the firm would not survive and would have to unwind, those individuals became the "skeleton crew" that agreed to stay on to assist the Receiver in unwinding the firm. That skeleton crew, which remains in place to this day (and is now working at the direction of the Dreier LLP trustee), has proven essential in handling the firm's affairs as it proceeds towards dissolution.

Receiver's counsel also set out to understand the relationship between Marc Dreier personally, Dreier LLP, and the other Dreier-related entities identified by the Court. Given the decision to file for bankruptcy protection for Dreier LLP (and given that at least some of the related entities appeared able to function and "wind down" on their own), it quickly became necessary to understand the basic financial arrangements between Dreier and each of these entities, to determine their financial condition, and to assess how a bankruptcy filing for Dreier LLP would affect them and separately whether a bankruptcy filing could (or should) be made for each. This in turn required a preliminary analysis of each entity's finances and communication with its remaining members.

These related entities are in fact separate law and consulting firms whose only common denominator was Marc Dreier. Each had a different agreement with Dreier providing for the allocation of payment of expenses and the allocation of funds. It was determined that a Dreier LLP bankruptcy would not cover those entities. After many conversations with the principals at the larger entities, the Receiver determined that they could continue on their own, at least long enough to reconstitute as new entities or otherwise unwind their operations. For that reason, the Receiver did not seek separate bankruptcy protection for any of those entities.

Since Dreier LLP's trustee was appointed, she has administered the affairs of Dreier LLP with the assistance and cooperation of the Receiver. The Receiver—in turn in cooperation with the Dreier LLP trustee—has continued to exercise control over the affairs of the remaining Dreier entities. This has involved negotiations with the remaining members of the entities and with third parties on a wide variety of matters,

including client files, AR and WIP, employee benefits, and disposition of furniture and computer equipment. A brief summary of the status of each of the entities is as follows:

- *Pitta & Dreier LLP*. This firm was a labor and employment law firm located at 499 Park Avenue in New York City. As of December 15, 2008, the firm has operated as Pitta & Giblin LLP. Because the Dreier LLP bankruptcy trustee has rejected the lease at 499 Park Avenue, P&D is currently looking to relocate from its space at 499 Park to new offices downtown. The firm is still collecting AR and paying bills accrued prior to December 15 out of a separate account. Representatives of Pitta & Dreier anticipate that the firm will have a surplus of funds after all outstanding bills are paid, and will hold that money in reserve for the Marc Dreier bankruptcy trustee.
- *Pitta, Bishop, Del Giorgio & Dreier LLP*. This firm was a law firm located at 111 Washington Avenue, Suite 401, Albany, NY 12210. Although it is still located in its old location, the firm has reconstituted itself as Pitta, Bishop, Del Giorgio and Giblin LLP. The firm is still collecting AR and paying bills accrued prior to December 15 out of a separate account. Representatives of Pitta, Bishop anticipate that the firm will have a surplus of funds after all outstanding bills are paid, and will hold that money in reserve for the Marc Dreier bankruptcy trustee.
- *Schlesinger, Gannon & Lazetera LLP*. This firm was located at 499 Park Avenue in New York City, and because the Dreier LLP bankruptcy trustee has rejected its lease, is currently considering relocation options. SGL continues to operate under the same name, but as a distinct entity separate from Marc Dreier.
- *Berry, Block & Bernstein LLP*. This was an employment consulting firm that occupied space on the 15th floor of 499 Park Avenue, and that had just opened when Dreier was arrested. The firm has ceased operations.
- *Dreier Stein Kahan Browne Woods George LLP—the “Dreier Stein Kahan” group (“DSK”)*. This law firm was operated out of two California offices, each of which had a distinct identity. DSK was operated out of leased premises at 1620 26th Street, Santa Monica, on the fifth and sixth floors of the North Tower. Each floor was separately leased, and on February 3, 2009, the Dreier LLP bankruptcy trustee filed a motion with the bankruptcy court requesting leave of the court to reject both of those leases. Most of DSK’s attorneys have moved on to other firms. At the insistence of the sub-landlord, Bingham McCutcheon, the remaining DSK personnel vacated the fifth floor offices on January 31, 2009. Today, a small skeleton crew

remains on the sixth floor to assist in the unwinding of the firm, including appropriate disposition of client files, collection of accounts receivable, payment of creditors, disposition of physical assets, and response to government inquiries. The Receiver is currently overseeing this process until the Marc Dreier bankruptcy trustee is appointed. It is anticipated that the sixth floor will be vacated within the next six weeks to two months.

- *Dreier Stein Kahan Browne Woods George LLP—the “Browne Woods George” group (“BWG”).* BWG operated out of leased premises at 2121 Avenue of the Stars, Century City, Los Angeles, on the 24th floor. This group has ceased its affiliation with Dreier Stein Kahan Browne Woods George LLP and has reorganized as Browne Woods George LLP. On February 3, 2009, the Dreier LLP trustee rejected the lease on this office space. BWG is currently negotiating various lease possibilities and may remain in its current location under a renegotiated lease. BWG continues to collect accounts receivable for DSKBWG and to pay expenses owed to vendors of DSKBWG. It maintains a separate bank account in the name of DSKBWG for these purposes. BWG has agreed to preserve any excess funds in the account for the Marc Dreier bankruptcy estate.
- *Entertainment Strategies Group LLC (“ESG”).* Entertainment Strategies Group, LLC (ESG) was a small group of consultants that operated out of sub-leased premises located at 420 N. Roxbury Drive in Beverly Hills, California. Apart from Marc Dreier, ESG was run by one additional principal. ESG has vacated the Beverly Hills space and is not currently operating. The remaining principal has not dissolved the entity, however, and is considering restructuring and reopening the firm without Marc Dreier. Receiver’s counsel is investigating how certain assets on the premises should be disposed of, including office furniture, a phone system, several servers, and other computer equipment that remains in that space. The ownership of those assets—whether they are Dreier’s or belong to BWG, the previous tenant of the space—has not yet been determined.
- *Dreier Sports Opportunities Group (“DSG”).* DSG was a small group of consultants that operated both out of the New York Dreier LLP offices and the Santa Monica offices of DSK. DSG has vacated both premises.
- *Mason Miller LLP.* Mason Miller was a start-up group of attorneys that operated out of offices on the 25th floor of 2121 Avenue of the Stars, Century City. It was formed in the summer of 2008, and had not yet built up a significant base of business. Mason Miller intends to vacate its office space by the end of February or sooner. Its principals continue to collect accounts receivable as they trickle in and to pay

accounts payable as funds become available. In order to minimize disruption to employees and vendors, the principals have paid certain small expenses out of their own pockets.

C. The Dreier LLP Bankruptcy

In the week after his appointment, the Receiver decided that while the related entities did not need immediate bankruptcy protection, Dreier LLP did. On December 16, 2008, the Receiver, having obtained leave of the Court (*see* Endorsed Letter to Judge Miriam Goldman Cedarbaum from Mark F. Pomerantz, *SEC v. Dreier*, 08 Civ. 10617 (MGC), dated Dec. 11, 2008, attached as Exhibit 12), caused Dreier LLP to file a petition under chapter 11 of the Bankruptcy Code (*see* Receiver's Petition for Chapter 11 Bankruptcy on behalf of Dreier LLP, *In re Dreier LLP*, 08-15051 (SMB), Dec. 16, 2008, attached as Exhibit 14). The decision was based on the unfortunate reality that the firm, which had no money left in its operating accounts and whose client escrow accounts had effectively been "looted" by Dreier, was simply not in a position to survive or to pay salaries or other obligations.

On December 18, 2008 (two days after the Petition was filed), Receiver's counsel filed two motions on behalf of Dreier LLP seeking court approval for payments to satisfy certain obligations incurred before the filing date, including payment of wages due to the members of the "skeleton crew" for work performed through December 15; payment of an employee medical plan premium that would prevent the retroactive termination of all Dreier LLP's medical insurance; a contribution to the employee 401(k) Plan that had been withheld from employees but not yet paid to the plan; a professional malpractice premium to bring the malpractice policy current; and a payment to a vendor for computer backup tapes to allow the firm to comply with outstanding subpoenas and to

preserve documents in anticipation of future litigation. At a hearing held on December 19, 2008, the court allowed the Receiver to make each of these payments.

On December 30, the Office of the United States Trustee designated Sheila Gowan, a partner at Diamond McCarthy LLP, as the Dreier LLP Chapter 11 trustee. She was formally appointed by order of the bankruptcy court on January 9, 2009. Since then, the Receiver and his counsel have worked cooperatively with Ms. Gowan and her counsel to continue the task of marshaling the firm's assets. This cooperation initially focused on the management of the firm itself. As the trustee took on increasing responsibility in that respect, the Receiver's efforts turned toward the management and disposition of the other related entities, several of which are located in California.

VI.

OTHER BANKRUPTCY AND FORFEITURE PROCEEDINGS

Other related proceedings have affected the operation of the receivership. Most notable are the filing of a personal bankruptcy for Marc Dreier and the government's institution of forfeiture proceedings, both of which occurred with the cooperation of the Receiver.

A. The Marc Dreier Personal Bankruptcy

On January 26, 2009, a team of creditors that included the Dreier LLP bankruptcy trustee sought leave from this Court for permission to file an involuntary Chapter 7 bankruptcy petition against Marc Dreier. This Court granted that request, and the bankruptcy petition was filed the same day. (*See Involuntary Petition for Chapter 7 Bankruptcy of Marc S. Dreier, In re Dreier*, 09-10371, Jan. 26, 2009, attached as Exhibit 16.) The Dreier LLP trustee's decision to seek bankruptcy protection for Marc Dreier's personal assets was made in consultation with the SEC, the USAO, and the Receiver, all

of whom agreed that a personal bankruptcy was required to maximize the collection of assets for creditors and victims of Marc Dreier. The Receiver understands that a trustee will be appointed as a matter of course for Marc Dreier's personal bankruptcy estate. That appointment is expected to occur very shortly.

B. Forfeiture Proceedings

On December 24, 2008, the Government filed its Application for Seizure Order. (*See* Ex. 2.) This application sought to restrain certain assets and to seize other assets of Dreier, as set forth on certain asset schedules. The Honorable Jed S. Rakoff granted the Government's application on December 29, 2008. (*See* Ex. 3.)

On January 12, 2009, the Honorable Colleen McMahon, sitting in Part I, approved a Consent Order in which the Government and Dreier stipulated that the previously-issued Seizure Order was to continue for an additional 45 days. (*See* Ex. 4.) The Consent Order also permitted the Marshals Service to seize, liquidate, and transfer certain bank accounts, to seize certain artwork listed in the Seizure Order, and to seize certain real property. (*Id.* at 1-2.)

Since entry of those orders and as noted above, the Marshals Service has been working systematically to seize the bulk of Marc Dreier's assets, and now controls many of them.

VII.

REQUEST FOR TERMINATION OF RECEIVERSHIP

Based on the current state of affairs, the Receiver believes that the receivership can and should be terminated. There are several reasons:

First, the immediate shock and disruption caused by Dreier's crimes and arrest have been absorbed. Dreier LLP is in bankruptcy, and its affairs are being

managed by the trustee (under the jurisdiction of the bankruptcy court) and by the skeleton crew originally retained by the Receiver. Clients have secured other representation; lawyers have found new positions. Efforts to identify and collect firm assets in the form of WIP and AR continue under the supervision of the trustee. Arrangements have been made for the return of all real estate in which Dreier LLP offices were located. Related entities have been either closed, are in the process of being unwound, or have “spun-off” into surviving offices. The Marc Dreier bankruptcy trustee will have all necessary authority to finalize that work. With respect to Marc Dreier personally, he awaits trial on criminal charges that carry lengthy periods of imprisonment. His tangible assets—bank accounts, art work, cars, the yacht, and so forth—have been located, preserved, and frozen or seized by courts and government agencies. Dreier himself has been put into bankruptcy, and a trustee is expected to be appointed to oversee that process. In short, the immediate and most pressing emergency tasks have been completed.

Second, with the appointment of a trustee for Dreier LLP, and the forthcoming appointment of a trustee for Marc Dreier’s personal bankruptcy estate, there will be able, experienced, and disinterested persons who will supervise the continued tasks of gathering assets, administering the bankruptcy estates, and liquidating and distributing law firm and personal assets. This will occur, as it should, under the supervision of the bankruptcy court. The United States Attorney’s Office, having sought to forfeit the great majority of Dreier’s tangible and real property, also will be closely involved in the process. The continued presence of a Receiver carries the risk of

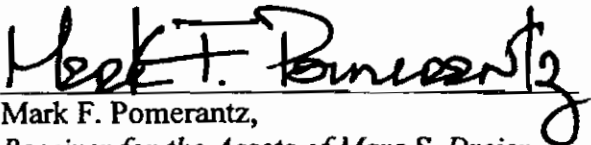
complicating what already promises to be a cumbersome, prolonged, and difficult process involving potentially competing claims of creditors, victims, and prosecutors.

Third, and as the Court is aware, the Receiver has been concerned from an early point with the need to manage administrative expenses in a context where there is very little cash and where the assets must be divided among many parties with legitimate claims to them. Marc Dreier's actions, regrettably, have brought considerable financial harm and substantial personal loss to a great many entities and people. Institutions that bought phony notes from Marc Dreier lost hundreds of millions of dollars. But we also spoke with lawyers, receptionists, secretaries, and many other employees at Dreier LLP who lost their jobs overnight, and right before Christmas. We dealt with clients who discovered that their funds were gone and their trust had been violated. We spoke with vendors who were waiting in vain to be paid for goods delivered and services rendered. In these circumstances, the Receiver and those he retains have a particular obligation not to "run the meter" beyond what is absolutely necessary to do their jobs. Further, they should cease their efforts at the earliest moment when it is responsible to do so. And, legal and professional obligations aside, it is unseemly to continue billing at expensive hourly rates in circumstances involving so much financial pain that has been suffered by so many.

Having consulted with the SEC, the United States Attorney's Office, and the Dreier LLP bankruptcy trustee, the Receiver believes that the interests of all parties are best served by terminating the receivership and allowing the remaining work to be completed by the respective trustees for Marc Dreier and Dreier LLP. In order to enable a smooth transition of relevant documents, information, and knowledge, we request that

an order terminating the receivership be entered ten days after the appointment of a trustee in the Marc Dreier bankruptcy.⁵⁰

Respectfully submitted,


Mark F. Pomerantz,
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⁵⁰ Of course, we will continue to cooperate with all parties to facilitate the orderly administration of pending proceedings. The Receiver also anticipates making an application for fees and expenses in the near future, following consultation with the SEC, the United States Attorney's Office, and the Dreier LLP bankruptcy trustee after they have had an opportunity to review this report.