

1 DAVID R. ZARO (BAR NO. 124334)
 MICHAEL R. FARRELL (BAR NO. 173831)
 2 ALLEN MATKINS LECK GAMBLE
 MALLORY & NATSIS LLP
 3 865 South Figueroa Street, Suite 2800
 Los Angeles, California 90017-2543
 4 Phone: (213) 622-5555
 Fax: (213) 620-8816
 5 E-Mail: dzaro@allenmatkins.com
 mfarrell@allenmatkins.com

6 EDWARD G. FATES (BAR NO. 227809)
 7 ALLEN MATKINS LECK GAMBLE
 MALLORY & NATSIS LLP
 8 One America Plaza
 600 West Broadway, 27th Floor
 9 San Diego, California 92101-0903
 Phone: (619) 233-1155
 10 Fax: (619) 233-1158
 E-Mail: tfates@allenmatkins.com

11 Attorneys for Receiver
 12 KRISTA FREITAG

13 UNITED STATES DISTRICT COURT
 14 SOUTHERN DISTRICT OF CALIFORNIA

15
 16 SECURITIES AND EXCHANGE
 COMMISSION,

17 Plaintiff,

18 v.

19 GINA CHAMPION-CAIN and ANI
 20 DEVELOPMENT, LLC,

21 Defendants,

22 AMERICAN NATIONAL
 INVESTMENTS, INC.,

23 Relief Defendant.
 24
 25
 26
 27
 28

Case No. 3:19-cv-01628-LAB-AHG

**RECEIVER'S UPDATED
 INVESTOR-SPECIFIC FORENSIC
 ACCOUNTING AND REPORT**

Date: April 12, 2021
 Time: 3:00 p.m.
 Ctrm: 14A
 Judge: Hon. Larry Alan Burns

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1 Krista Freitag ("Receiver"), the Court-appointed permanent receiver for
2 Defendant ANI Development, LLC, Relief Defendant American National
3 Investments, Inc., and their subsidiaries and affiliates ("Receivership Entities"),
4 hereby submits this updated Investor-Specific Forensic Accounting and Report
5 ("Forensic Report"). This updated Forensic Report reflects a refinement of investor
6 specific losses as defined by a netting of the funds paid to and from that investor.
7 This does not reflect the actual damages suffered by investors or the Receivership
8 Entities as a result of the below described Scheme. With these refined numbers, the
9 Receiver intends to seek approval of procedures for the administration of claims
10 against the receivership estate in the next 60 days.

11 On August 28, 2019, the United States Securities and Exchange Commission
12 ("Commission" or "SEC") filed a Complaint which alleges Defendants Gina
13 Champion-Cain and ANI Development, LLC perpetrated a large-scale fraud, raising
14 over \$300 million from investors since 2012, and over \$100 million in the year prior
15 to the filing, for purported short-term, high-interest loans to parties seeking to
16 acquire liquor licenses (the "Scheme"). The Commission alleges the purported loans
17 were a sham and the Defendants were using monies raised from investors to support
18 the business operations of Defendants' affiliated entities and to make sham interest
19 payments to earlier investors.¹

20 On September 3, 2019, this Court (the Hon. Marilyn Huff) entered the Order;
21 Granting the Parties' Joint Motion and Stipulated Request by all Parties for
22 Preliminary Injunction Order and Order (1) Freezing Assets; (2) Requiring Accounts;
23 (3) Prohibiting the Destruction of Documents; and (4) Appointing a Permanent
24 Receiver (the "Appointment Order").

25 The Appointment Order directs the Receiver to "make an accounting, as soon
26 as practicable, to this Court and the SEC of the assets and financial condition of
27

28 ¹ On July 22, 2020, Defendant, Ms. Champion Cain, pleaded guilty to Conspiracy,
Securities Fraud and Obstruction of Justice in the related criminal case.

1 Defendant ANI Development and Relief Defendant American National Investments
2 and to file the accounting with the Court and deliver copies thereof to all parties."

3 As discussed below, the Receiver has completed her (a) review and analysis of
4 the bank records, and books and records of the numerous Receivership Entities, (b)
5 evaluation of the Scheme's sources of funds, and (c) evaluation of the Scheme's use
6 of funds. This Report summarizes the Receiver's findings regarding the investor-
7 specific transactional history of the Receivership Entities' bank accounts (as well as
8 certain Chicago Title so-called escrow accounts and certain Kim Peterson-related
9 bank accounts) for the period from May 27, 2011² to September 3, 2019 (the date of
10 entry of the Appointment Order) based on the accounting work performed to date.

11 I. EXECUTIVE SUMMARY

12 Through the forensic accounting worked performed to date, the Receiver has
13 determined where the money received by the Receivership Entities came from, how
14 it was transferred between and among them, and where it was disbursed. The
15 Receivership Entities commingled assets and operated in concert as one large,
16 unitary enterprise. The investor activity reflects a Ponzi scheme where earlier and/or
17 other investors in the Scheme were paid from funds raised from later and/or other
18 investors in the Scheme.

19 More than 180 accounts (bank, credit card and so-called "escrow" accounts)
20 involving over 230,000 transactions and approximately \$1.2 billion of transactional
21 detail (including intercompany and inter-account transfers) have been reviewed and
22 categorized and will be presented in the global forensic accounting report. More
23 than 35 of these accounts reviewed include more than 4,860 investor receipts and/or
24 disbursements.

25
26 ² May 2011 was deemed an appropriate starting point for the accounting because
27 the bank records show the first deposit into a Chicago Title so-called escrow
28 account was May 27, 2011. Provided however, April 2012 was deemed the
appropriate starting point for the accounting detail for the Kim Peterson-related
accounts because books and records show his first Scheme-related transaction
occurred on April 6, 2012.

1 In the coming weeks and no later than the end of April 2021, the Receiver
2 intends to file a forensic accounting report breaking down the comprehensive sources
3 and uses of funds, including funds transferred to/from Receivership Entities,
4 Defendant Gina Champion-Cain, Chicago Title, and Kim Peterson-related accounts,
5 as well as a summary of funds used for the Receivership Entities' restaurant, retail,
6 vacation rental, and other business operations.³ This Forensic Report is focused on
7 investor data, particularly the losing investor data, which is what was discussed at the
8 hearings held on August 26, 2020 and December 17, 2020 as being relevant to the
9 Receiver's motion for authority to pursue claims against Chicago Title
10 Company/Chicago Title Insurance Company ("CTC").

11 There are approximately **330** total unique third-party losing investors⁴, and
12 based upon the best of the Receiver's knowledge at this time, the aggregate net loss
13 amount is approximately **\$184 million**⁵. This net loss amount is reflective of the
14 monies paid into and out of the Scheme and does not reflect actual damages
15 sustained (by investors and/or the Receivership Entities) as a result of the Scheme.

16 The top three losing investors represent nearly \$62 million (or 34%) of the
17 total \$184 million net loss number. The simple average net loss number per losing
18 investor is nearly \$560,000. Regarding active state court lawsuits against CTC, to
19 the best of the Receiver's knowledge, approximately **90** (27%) of the losing investors
20 representing approximately **\$15 million**, or 8%, of the total net loss amount are not
21

22 ³ The Receiver had planned and was on track to complete her accounting and file a
23 comprehensive forensic accounting report by March 31, 2021. Unfortunately, she
24 had a travel to Kansas for a significant portion of February and March 2021 to
25 help her family through a medical emergency involving a fire that burned down
26 her parents' home and left her father with life-threatening burns.

25 ⁴ Until a claims process is completed, the total number of truly "unique" investors
26 cannot be determined as certain individual investors also invested through others,
27 individual retirement accounts, trusts, corporations, limited partnerships and
28 limited liability companies. The Receiver will not be able to finalize to whom or
29 how such investments are credited, and/or are (dis)aggregated until such time as
30 the claims process is completed.

28 ⁵ There are still several custodial transactions included in this number totaling
approximately \$400,000, for which the Receiver is not yet able to identify the
applicable party.

1 directly involved in a pending action against CTC.⁶ Approximately **240** (or 73%) of
2 the losing investors representing approximately **\$169 million**, or 92%, of the total net
3 loss amount are plaintiffs in pending actions against CTC. This analysis presents
4 investors' total money deposited into the Scheme by investors (directly through the
5 Receivership Entities and through so-called Chicago Title escrow accounts and Kim
6 Peterson accounts) less total money disbursed from the Scheme to investors (directly
7 through the Receivership Entities and through so-called Chicago Title escrow
8 accounts and Kim Peterson accounts).

9 **II. COMPREHENSIVE RECEIPTS & DISBURSEMENTS [SOURCES &**
10 **USES] PREVIEW**

11 The more than \$1.2 billion of transactional detail (during the period from May
12 27, 2011 and September 3, 2019) to be presented in the forthcoming forensic
13 accounting report represents money to/from investors in the Scheme,
14 intercompany/inter-account transfers, and other sources/uses such as real estate and
15 operational revenues and expenses, miscellaneous investments and promissory notes,
16 insider transfers and other miscellaneous transactions. Of these totals, approximately
17 \$389 million of investor funds were deposited into and approximately \$226 million
18 investor payments were made from the Scheme.

19 **A. Investor Receipts & Disbursements**

20 The first payment made by an investor into Chicago Title appears to be on
21 May 27, 2011, and the last payment made to investors occurred on August 26, 2019,
22 just prior to entry of the Appointment Order on September 3, 2019. Approximately
23 440 unique third-party investors deposited funds into the Scheme (including profiting
24 investors). Some investors invested through others; many investors invested multiple
25 times, through different (but affiliated) entities, personal accounts, trust accounts,
26 retirement custodial accounts, and joint accounts. In the Receiver's preliminary
27

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⁶ This does not include potential members of the putative class in the *Allred* matter.

1 accounting report, [Doc. 516], other than personal/retirement/joint accounts, these
2 affiliated investments were substantively counted as a unique investor; however, in
3 this update and as may be the case in a claims process, affiliated investments are
4 aggregated. Several additional accounts and unique investors (and numerous
5 additional investor transactions (e.g., over 4,860 versus more than 4,300)) are
6 reflected in the summary data in this updated Forensic Report, nonetheless, (because
7 of the aforementioned aggregation of accounts) the number of unique investors is
8 smaller than the number in the Preliminary Forensic Report (while the actual investor
9 transaction and net loss amounts increased).

10 Investor deposits were made via multiple methods, including primarily via the
11 following: (1) investors (or their retirement account custodian) sent money to
12 Chicago Title, (2) investors sent money to other investors and/or entities, who then
13 sent such funds, or a portion thereof (directly or after aggregating the funds with
14 other funds) on to Chicago Title or to a Receivership Entity directly, and
15 (3) investors (or their retirement account custodian) sent money directly to a
16 Receivership Entity. Funds were paid out from the Receivership Entities primarily in
17 the same ways (in reverse). The investors and/or entities who raised/received funds
18 directly from other investors for the purpose of being invested in the Scheme are
19 referred to as "Aggregators".

20 Investors (and certain individuals who do not appear to be investors) also
21 received payments, referral fees or commissions for bringing other investors into the
22 Scheme. Such payments are reflected in the summary numbers presented herein.
23 Also, certain investors appear to have received benefits associated with related real
24 estate or other ancillary businesses and investments. While these ancillary activities
25 are not reflected in the summary of the Scheme-specific payment activity presented
26 herein, the Receiver intends to address such activity, to the extent relevant and/or
27 discernable, during the claims process.

28

1 Given the high-profile nature of this case, the numerous communication
 2 platforms (e.g., the receivership-specific website where investors can register), the
 3 numerous records the Receiver has obtained (via subpoena or through representative
 4 counsel), the Receiver is confident she has substantially identified the investor
 5 population.

6 The following table reflects all investor account activity for all accounts
 7 reviewed (including profiting investors) for the period from May 27, 2011 through
 8 September 3, 2019:

10	Approximate Unique Third-Party Investors	440
11	Investor Receipts (Money In)	\$ 389,155,000
12	Investor Disbursements (Money Out)	(\$226,102,000)
13	Net Total Investor Activity	\$ 163,053,000

14
 15 These numbers include profits, referral fees, commissions and other amounts
 16 paid out to certain profiting investors, but do not reflect settlement payments
 17 received by certain investors from CTC after entry of the Appointment Order (*i.e.*
 18 payments received by certain investors under the SIP Investors' settlement with CTC)
 19 or the Receiver's settlement with investor Charles Riharb.

20 It is also critical to note that because of how certain investors and Aggregators
 21 treated and/or handled investor funds, a forensic accounting without a completed
 22 claims process will not produce a final total net loss amount for each investor. For
 23 example, the Receiver has received some records showing that certain investors
 24 aggregated funds and sent such funds to the Receivership Entities on behalf of others
 25 (however, the source payment records have no reference to the individual whose
 26 funds were invested). Ultimately, the instances in which payments cannot be fully or
 27
 28

1 properly allocated to one or more investors will need to be addressed, clarified and/or
2 reconciled through the investor claims process.

3 **III. SUMMARY OF ACCOUNTING WORK PERFORMED TO DATE**

4 The Receiver and her team performed the following procedures (at a
5 minimum) to ensure accuracy of the figures provided in this and the forthcoming
6 more comprehensive forensic accounting report:

- 7 ➤ Chicago Title So-Called Escrow Accounts
- 8 ○ Created a database from the underlying Chicago Title records
 - 9 of more than 2,700 receipt and disbursement transactions from
 - 10 10 separate CTC so-called escrow accounts used in the
 - 11 Scheme.
 - 12 ○ Reconciled the inter-account transfers to/from the CTC
 - 13 accounts to the Receivership Entities and certain Kim
 - 14 Peterson-related bank accounts.
 - 15 ○ Tested receipts and disbursements from the CTC transactional
 - 16 database to underlying detail.
 - 17 ○ Reconciled the ending balance to the funds transferred to the
 - 18 Receivership Estate.
- 19 ➤ Receivership Entities
- 20 ○ These bank accounts fall into two categories: [1] bank
 - 21 accounts that were maintained by the Receivership Entities’
 - 22 corporate office (primarily associated with the numerous real
 - 23 estate assets and operations), [2] bank accounts not maintained
 - 24 by the corporate office (accounts primarily utilized in the
 - 25 Scheme or personal accounts).
 - 26 ○ For bank accounts maintained by the corporate office, copies
 - 27 of the QuickBooks files’ beginning and ending cash balances
 - 28 were reconciled to the source bank documents, which included

- 1 examining the underlying receipts, transfers and disbursements
- 2 (check detail and/or wire support) on a test basis.
- 3 ○ For bank accounts not maintained by the corporate office, the
- 4 Receiver's team created a database of the banking activity
- 5 directly from the underlying source bank account documents,
- 6 including statements, deposits, check copies and wire support.
- 7 ○ May 27, 2011 beginning balances were confirmed to the
- 8 underlying bank account details.
- 9 ○ September 3, 2019 (appointment date of Receiver) ending
- 10 balances were confirmed to the underlying bank statements for
- 11 each respective entity and ultimately to the amounts recovered
- 12 by the Receiver, as previously reported.

13 ➤ Kim Peterson Related Accounts

- 14 ○ Created a database of the banking activity directly from the
- 15 underlying source bank account documents, including
- 16 statements, deposits, check copies and wire support.
- 17 ○ Categorized the banking activity to quantify the direct investor
- 18 receipts and disbursements, transfers to/from the CTC so-
- 19 called escrow accounts and the Receivership Entities, and
- 20 categorized non-Scheme deposits and expenses (to the extent
- 21 possible).
- 22 ○ April 6, 2012 beginning balances were confirmed to the
- 23 underlying bank account details.

24 The Receiver further tested the resulting investor transactional detail to various
25 investor records obtained, including but not limited to books and records of the
26 Receivership Entities and records provided by investors directly and/or by their
27 representative counsel.

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IV. CONCLUSION

With the accounting of investor losses completed, the Receiver intends to seek approval of procedures for the administration of claims against the receivership estate in the next 60 days. As noted above, the Receiver intends to file a forensic accounting report breaking down her accounting in the coming weeks, and no later than the end of April 2021 – she and her team are in the process of preparing this report and associated exhibits.

Dated: March 31, 2021

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
DAVID R. ZARO
EDWARD G. FATES

By: s/ David R. Zaro

DAVID R. ZARO
Attorneys for Receiver
KRISTA FREITAG

PROOF OF SERVICE

Securities and Exchange Commission v. Gina Champion-Cain and ANI Development, LLC
USDC, Southern District of California – Case No. 3:19-cv-01628-LAB-AHG

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

On **March 31, 2021**, I caused to be served the document entitled: **RECEIVER’S UPDATED INVESTOR-SPECIFIC FORENSIC ACCOUNTING AND REPORT** on all the parties to this action addressed as stated on the attached service list.

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with the firm's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

OVERNIGHT DELIVERY: I deposited in a box or other facility regularly maintained by express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelope(s) or package(s) designed by the express service carrier, addressed as indicated on the attached service list, with fees for overnight delivery paid or provided for.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

E-FILING: By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

FAX: By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **March 31, 2021** at Los Angeles, California.

Martha Diaz

Martha Diaz