

<p>District Court, Denver County, Colorado 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>FRED J. JOSEPH,  Securities Commissioner for the State of Colorado,  Plaintiff,  v.  SEAN MICHAEL MUELLER, MUELLER CAPITAL MANAGEMENT, LLC, and MUELLER OVER UNDER FUND, LP,  Defendants.</p>	<p>DATE FILED: December 16, 2015 3:24 PM FILING ID: E4D721D6E9B94 CASE NUMBER: 2010CV3280</p> <p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
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<p><b>RECEIVER'S DECEMBER 2015 STATUS REPORT</b></p>	

C. Randel Lewis, as Receiver for Mueller Capital Management, LLC (“MCM”), Mueller Over Under Fund, LP, and related businesses, including Mueller Partners, LP, MCM, LLC, and Mueller Fund, LP, submits this report on the status of the Receivership.

1. On April 23, 2010, the Commissioner filed his Complaint for Injunctive and Other Relief. On April 27, 2010, this Court entered an Order Appointing the Receiver for MCM, Mueller Over Under Fund, LP, as well as any related businesses, including Mueller Partners, LP, MCM, LLC, and Mueller Fund, LP (collectively, the “Business” or the “Estate”). Sean Michael Mueller (“Mueller”) had been operating the Business as a Ponzi scheme.

2. On November 1, 2010, Mueller pled guilty in Denver District Court to violating the Colorado Organized Crime Control Act, C.R.S. § 18-17-104(3), a class two felony, and Securities Fraud and Theft, both class three felonies. On December 6, 2010, he was sentenced to forty years in prison and ordered to pay in excess of \$65 million in restitution. The Receiver has been informed that some investors have received minimum restitution payments from Mueller, and those payments may continue. Those payments have not been made by the Receiver or from assets of the Estate.

3. The Receiver has collected the assets of the Estate and with the exception of the *Taylor* case discussed below concluded all litigation efforts on behalf of the Estate.

4. On July 28, 2014, the Receiver filed his Proposed Plan of Distribution (“Proposed Plan”) and a motion seeking approval of the Proposed Plan. The Proposed Plan summarizes the Receiver’s recovery efforts and the liabilities and assets of the Estate. A copy of the motion and the Proposed Plan were served on all parties in interest, including all claimants in the Receivership and all investors in the Business.

5. After several hearings, the Court ordered the Receiver to amend the Proposed Plan, which he did on April 3, 2015. On April 17, 2015, the Receiver’s Amended Plan of Distribution became effective and in early May 2015, interim distributions of \$10 million were made as ordered by the Court. Copies of the Proposed and Amended Plans (and other relevant materials) remain available at [www.muellerreceivership.com](http://www.muellerreceivership.com).

6. The only remaining Receivership Estate litigation is a case pending against Steve Taylor. Mr. Taylor received \$487,305.29 in net profits from Mueller before the Receiver was appointed. The Receiver sued to recover those profits under Colorado’s Uniform Fraudulent Transfer Act (“CUFTA”). On January 4, 2013, the Receivership Court entered summary judgment for the Receiver and against Mr. Taylor for the entire \$487,305.29. Mr. Taylor appealed but deposited \$500,000 with the Receiver to secure the judgment. That \$500,000 is being held in a segregated account pending the final outcome of the *Taylor* case.

7. On March 13, 2014, the Colorado Court of Appeals reversed the Receivership Court’s summary judgment order on the ground that the time-period for bringing CUFTA claims had expired before the Receiver sued Taylor and that the express tolling agreement between Mr. Taylor and the Receiver was not enforceable. On June 19, 2014, the Receiver filed a petition for certiorari with the Colorado Supreme Court asking it to review the Court of Appeals’ decision.

8. On August 3, 2015, the Colorado Supreme Court granted the Receiver’s petition and agreed to review the *Taylor* case. Briefing before the Colorado Supreme Court is completed and oral argument is scheduled for January 26, 2016. The Receiver is unable to state when the Colorado Supreme Court will decide the case, or to predict the outcome of its decision. Depending on the decision, there may be further proceedings in the *Taylor* case.

9. On December 9, 2015, Spencer Brod, an investor who lost \$215,000 in Mueller’s Ponzi scheme, but did not timely file a claim with the Estate by the claims bar date of November 30, 2011, filed a Motion for Allowance of Late Filed Claim. A copy of the Motion is posted on the Receiver’s website at [www.muellerreceivership.com](http://www.muellerreceivership.com). The Receiver takes no

position with respect to Mr. Brod's Motion, and objections by other parties in interest are due December 30, 2015. If Mr. Brod's late claim is allowed, he will receive the first \$31,829.00 from the Estate's final distribution and share pro rata with other allowed claims in the remainder of the final distribution. Assuming a final distribution of \$1.5 million (an estimate only, and subject to change depending on the outcome of the Taylor case and allowed administrative expenses), allowing Mr. Brod's claim would reduce the total recovery to other allowed claimants from 17.02% to 16.97%.

10. There is currently approximately \$2.1 million in the Estate's accounts, which includes the \$500,000 deposited by Mr. Taylor. The Receiver does not anticipate making additional interim distributions, nor making a final distribution until a final non-appealable judgment is entered in the *Taylor* case.

Dated: December 16, 2015.

**LINDQUIST & VENNUM L.L.P.**

*original signature on file*

By: /s/ Michael T. Gilbert

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**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on December 16, 2015, a true and correct copy of the foregoing **RECEIVER'S DECEMBER 2015 STATUS REPORT** was served via ICCES and/or first class U.S. Mail, postage prepaid, on the following, and is also available at [www.muellerreceivership.com](http://www.muellerreceivership.com):

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