



information provided by the Receiver in his Reply is still insufficient to merit the Court's granting of the Motion.

2. In fact, instead of sufficiently addressing the legitimate concerns of the Association and this Court in his Reply, the Receiver attacks the Association for raising its concerns. The Receiver wrongly accuses the Association of "*ad hominem*" attacks, even though the Objections clearly focus on the content and deficiencies of the Receiver's *Motion* and proposed settlement. The Receiver, however, uses his misunderstanding as a justification to personally attack the Association and its representatives. The Receiver spins the Association's brief mention of its prior objection to the Lakeside Assets sale into a three-page attack bearing no relevance to the proposed settlement with Halo.<sup>2</sup>

3. While the Association acknowledges the Receiver's efforts throughout these proceedings, it simply requests information and transparency regarding the Halo-related assets and claims in order to properly evaluate the fairness of the proposed settlement. The Association believes that parties can disagree about what is in the best interest of the receivership estate without taking any disagreement personally or actively seeking to make the dispute personal.

4. The Association's involvement has benefitted the estate. Though the Receiver suggests otherwise, members of the Association have spent countless unpaid hours at the Receiver's offices meeting with the Receiver and working in an effort to maximize recovery. This includes reviewing boxes of information and identifying documented assets that did not appear on AMX. Citing just one example, the Receiver's settlement with American Mutual, L.P.

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<sup>2</sup> The Association's reference to its prior objection was short and prefatory, included simply to note the importance of the objection process and to point out the Association's past involvement in this proceeding as a lead-in to the current objection. The Receiver's extended attack on the Association is uncalled for. Reading the Receiver's Reply, one might get the impression that the Association has somehow harmed the estate by causing some overwhelming burden upon the Receiver. But this is just the second time the Association has filed an objection to any of the Receiver's proposed actions (the Lakeside Assets sale being the only other instance).

is traceable to the Association's identification of certain boxes of assets in the Receiver's offices. The Association members' familiarity with the assets and their willingness to expend time and effort has undoubtedly assisted the estate in this process.<sup>3</sup>

5. The Association's objection to the Lakeside Assets sale will result in a greater recovery for the estate. The fact remains that the Court did *not* approve the Receiver's proposed \$195,000 sale of the Lakeside Assets (a proposal brokered by Halo). The Receiver refuses to acknowledge that the objections to the sale made by the Association (and others) led to a more reasoned and thorough process for the asset sale. Instead, the Receiver launches an attack on the Association to suggest, for the first time, that it was complicit in the fraud perpetrated by HP Debt Exchange, LLC. But the Association and Linda Hayes, like the Receiver, were victims of the fraud, not the actors. The Receiver understood that HP, and *not* the Association, was the wrongdoer in the situation when he sought to hold HP, and *not* the Association, in contempt. *See* [Doc. 190]. Until his Reply, the Receiver had never suggested that the Association or Ms. Hayes acted fraudulently.

6. Although the Receiver suggests the \$450,000 sales price was driven by misrepresentations regarding the quality of the assets, the Receiver ultimately sought and received an Order from this Court in which the opening bid in a public auction of the Lakeside Assets is set at \$450,000 made by Torok. *See* [Docs. 233 & 252]. Apparently, the Receiver in good faith believes the assets are actually worth *at least* that much, but for some reason he continues to insist that \$195,000 was a fair price. *See* Reply at 6, n. 3. The Receiver would not have received the \$450,000 without the objection process.

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<sup>3</sup> In another example, Association member Art Noack, who has oil and gas experience, carefully researched mineral lease documents and identified rights of the Association in more than 5,000 acres of which the Receiver had not previously been aware.

7. The Receiver still has not provided evidence of Halo's value or that he has sufficiently investigated its value. In reply to the Association's Objections, the Receiver provides his limited analysis of Halo's 10-Q<sup>4</sup> and unsupported beliefs regarding the value of the company or its stock. The Receiver has not provided any evidence of any unreported value, company potential, or other factors beyond the straightforward assets/liabilities columns in the report. Notably, the Receiver brushes aside the Association's suggestion that AMX has a value that is not reflected in Halo's financial reports by stating, "In the Receiver's experience, publicly traded companies with publicly available financials do not underreport assets." *See* Reply at 13, n. 7.

8. The Receiver misconstrues the Association's point about unreported value, including AMX's absence from Halo's balance sheet. The Association is not saying that Halo was obligated to report AMX as an asset; rather, that the balance sheet is not indicative of Halo's net worth because AMX is not required to be reported as a line-item asset. For example, though Apple does not report its operating system software as an asset in its filings (which unlike AMX is actually marketed), nobody would contend the software has no value. AMX is a useful tool that has value to Halo and could have value to a potential purchaser or user of the software that is not considered in its public filings, balance sheet, or by the Receiver in assessing Halo's worth.

9. The Receiver likewise misses the point regarding Halo's stock valuation. Not only does the Receiver's balance sheet approach miss the mark, but so does his reliance on historical stock information. Indeed, he ignores the fact that the company's fortunes recently experienced an upswing,<sup>5</sup> which coincided with a higher price point for the stock, suggesting a greater company value going forward. Similarly, the Receiver's argument regarding the dilutive effect of

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<sup>4</sup> Halo apparently has the interest and funds to keep its SEC filings correct and up to date.

<sup>5</sup> The Receiver also ignores the fact that Halo's recently filed 10-Q acknowledges that Halo has earned net profits of \$1.1 million on revenue of \$3.8 million during the first six months of 2013.

a large sale of stock ignores the power and value of such a large holding. The value of the stock is not in dumping it on the open market, rather it represents significant ownership with significant rights, which is certainly valuable to Halo going forward, and which should be reflected in any settlement amount.

10. The estate's ownership of Halo stock, some of which is undisputed, provides other valuable rights including rights that could provide more information regarding Halo. Though the Receiver seems ready to simply concede the estate's ownership interest in the common stock, the ownership of the 90,000 shares of Series X Preferred Stock is not in dispute. *See Reply at 8; see also Ex. C to Objections, Halo 10-Q* (noting that "[t]he remaining 90,000 shares were issued for cash consideration"). The Receiver could use this ownership interest to exercise the estate's shareholders' rights in Halo, which range from inspecting the books of Halo to instituting a derivative suit against Halo and, perhaps more significantly, against its directors and officers, whom the Association believes have harmed Halo as well as Stewardship Fund. The Receiver has not evidenced that he has sought to obtain this available information or potential discovery from Halo, even though he has several grounds to do so.

11. The Receiver appears to simply trust that Halo is acting honestly in all aspects of its business and its representations to the Receiver, despite the fact that the Association has shared evidence with the Receiver that Halo acted fraudulently and that Halo is currently in the midst of at least one lawsuit in which it is accused of fraud in transactions at least tangentially related to Stewardship Fund.<sup>6</sup> Yet the Receiver proposes to absolve Halo of all claims, including not only the many categories of claims he could initiate, but also the claims of third parties who

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<sup>6</sup> *See Bruce Berg, et al. v. Halo Companies, Inc., et al.*; Cause No. 11-15415, In the 19th District Court, Dallas County, Texas.

have already initiated and wish to proceed against Halo. Significantly, the release proposed by the Receiver also releases the individual actors at Halo who would potentially be jointly liable for any fraud perpetrated, and whose financial situation should be, but has not been, considered by the Receiver and this Court.

12. The Association has conveyed to the Receiver its belief based on witness statements and circumstantial evidence that Stewardship Fund has claims against Halo and its principals.<sup>7</sup> In a face-to-face meeting with the Association, the Receiver indicated that he also believed the transaction between Stewardship Fund and Halo was suspicious, and that he intended to discuss the issue with the SEC. He later indicated he did not do so. The Receiver has apparently ignored or trivialized the facts relayed by the Association and other investors regarding Halo, including those pleaded by others such as the Berg Group. The Association offers that it has additional information and belief of wrongdoing by Halo or its principals that it has shared or is willing to share with the Receiver, but hesitates to reveal the basis in this pleading for fear of both tipping off Halo prior to initializing the safeguards of a court and undercutting Stewardship Fund's claims.

13. The Receiver, however, makes an apparent and inexplicable effort to undercut the strength of his claims against Halo. The Receiver incorrectly states that to prevail on a fraudulent transfer claim he must prove the \$1.2 million transferred to Halo was for a loan. This is not correct. The Receiver can prove fraudulent transfer under several theories in Texas Business &

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<sup>7</sup> For example, attached as Exhibit A is the Affidavit of John Henry, former Sales Manager at Stewardship Fund. Mr. Henry attests that the development of AMX was guided by Stewardship Fund employees and that the developer of AMX, Jamin Blount (whose affidavit is attached as an exhibit to the Receiver's Reply), consulted him and others at Stewardship Fund to develop AMX's overall functionality. Mr. Blount's affidavit is narrowly worded to only refer to the actual coding of AMX; however, the framework of the program and its core functionality was a product of input from Stewardship Fund employees such as Mr. Henry. Mr. Henry previously shared this information with the Receiver and it is supported by emails that are in the Stewardship Fund email server which is in the Receiver's possession.

Commerce Code Chapter 24, including, for example, that Stewardship Fund did not receive reasonably equivalent value for the money transferred. In fact, the Receiver's Reply states his belief that the stock that Halo claims to have provided Stewardship Fund in exchange for cash consideration is worthless; thus, there is an argument Stewardship Fund was not provided reasonably equivalent value. Similarly, Stewardship Fund transferred nearly all of its assets to Stewardship Fund without receiving reasonably equivalent value—*i.e.*, for allegedly worthless stock further devalued by an alleged clawback provision.

14. In any case, the assertion by Halo that the money transfers were for services rendered strains credulity in the face of the evidence. Halo officers expressly stated that Halo provided no services to Stewardship Fund (*see* Objections at Ex. D), but now asserts the opposite when it benefits Halo. The Court is being asked to accept the claim that payments were made *before* services were rendered in odd amounts that happen to be for invoices in the same amounts that were issued after the fact by Halo. On information and belief, and based upon allegations by the Berg group, which is engaged in a lawsuit with Halo, has sought and received discovery from Halo, and also objects to the Halo settlement, the evidence reflects that these payments were loans made to Halo so that it could meet payroll and obligations to third parties.

15. Further, aside from the allegations of contract breach, fraud, and fraudulent transfer, allowing Halo to retain the profits from Stewardship Fund's valuable assets transferred to Halo would simply be unjust and inequitable. Several theories exist for recovery beyond contractual and fraud theories. Stewardship Fund transferred all of its operations, assets, employees and business model (not to mention \$1.2 million in cash) to Halo in exchange for the stock. That transfer appears to have yielded millions of dollars in revenues arising from the assets transferred to Halo, as well as from the AMX software. To give back Halo's stock, let it

keep AMX, absolve Halo and its principals of many alleged acts of wrongdoing, and receive only \$250,000 in exchange is unjust on its face.

**PRAYER**

For these reasons, the Association requests a hearing to address the Receiver's Motion and this Opposition and Objections filed in response, and at the conclusion of the hearing prays that the Court sustain the Association's objections and deny the relief requested in the Receiver's Motion. The Association further prays for such other and further relief that the Court deems just.

Dated: October 4, 2013

Respectfully submitted,

**KANE RUSSELL COLEMAN & LOGAN PC**

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**ATTORNEYS FOR STEWARDSHIP RECEIVERSHIP  
CLAIMANTS ASSOCIATION**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via the Court's ECF system on this 4<sup>th</sup> day of October, 2013.

By /s/ Bruce Flowers  
Bruce M. Flowers