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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

<p><b>SECURITIES AND EXCHANGE COMMISSION,</b></p> <p>Plaintiff,</p> <p>v.</p> <p><b>VESCOR CAPITAL CORP., et al.,</b></p> <p>Defendants.</p>	<p><b>MAY 5, 2009 STATUS REPORT</b></p> <p>Case No. 1:08cv00012</p> <p>Judge Dee Benson</p>
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The Receiver submits this Report to apprise the Court of the status of the VesCor receivership. It is being filed in the *SEC v. VesCor* matter, Civil No. 1:08-cv-00012, and will be sent to counsel of record through the Court's electronic filing system. A copy is also being posted on the Receiver's website, [www.vescorreceivership.com](http://www.vescorreceivership.com), so that investors and other interested parties have access to the information included.

The receivership was created one year ago, on May 5, 2008. The Receiver has engaged in the following actions since his last report, dated November 21, 2008.

### **REAL ESTATE**

Until recently, the receivership had listed for sale several pieces of real estate in southern Nevada. The Receiver received two offers on parcels of the real estate. The receiver determined that one of the offers was not in the best interest of the receivership. The second offer, made on Apex Lot 23, was presented to the Court. After considering the objections to the sale, the Court determined that the value of Apex Lot 23 may increase as the Las Vegas real estate market improves, and ordered that the sale not go forward. Based in part on the Court's conclusion, the Receiver has withdrawn the Nevada real estate from the market, and will monitor changes there.

One of the receivership entities owns a home in Ogden. It is currently occupied by John David Southwick. John David Southwick has recently filed a motion to have one of the receivership entities, Towicks, removed from the receivership.

Val Southwick and his wife occupied a home in Ogden. The Receiver believes the home has negative equity, and does not intend to pursue its sale.

The real estate continues to accrue property taxes. The Receiver recently paid \$386,254.35 to Clark County Nevada in satisfaction of past due and current property taxes.

## LITIGATION

The Receiver has filed approximately thirty-nine (39) suits to recover assets that were transferred by VesCor. They are:

1. *Wing v. Advanced Planning* 2:09-cv-0247
2. *Wing v. Allen, et al.* 2:09-cv-0407
3. *Wing v. Alvey, et al.* 2:08-cv-0796
4. *Wing v. American Express Company, et al.* 2:09-cv-0396
5. *Wing v. Apex Holding Company, et al* 2:09-cv-0022
6. *Wing v. Bell, et al.* 2:09-cv-0116
7. *Wing v. Buchanan, et al.* 2:08-cv-0803
8. *Wing v. Dockstader, et al.* 2:08-cv-0776
9. *Wing v. Engberson, et al.* 2:09-cv-0392
10. *Wing v. Fulbright, et al.* 2:09-cv-0200
11. *Wing v. Gamett and King, et al.* 2:09-cv-393
12. *Wing v. Gillis* 2:09-cv-0314
13. *Wing v. Hammons* 2:08-cv-0620
14. *Wing v. Heritage Capital Management, LLC., et al* 2:08-cv-0835
15. *Wing v. Holder, et al.* 2:09-cv-0118
16. *Wing v. Harrison Horn* 2:09-cv-0342
17. *Wing v. Brian Y. Horne, Kevin D. Kunz, et al.* 2:08-cv-0780
18. *Wing v. JC Compact LLC, et al.* 2:09-cv-397

19. *Wing v. Johnson, Folsom & Associates* 2:09-cv-0404
20. *Wing v. Jonathan H. Horne, et al.* 2:08-cv-0717
21. *Wing v. Kendrick, et al* 2:08-cv-1002
22. *Wing v. Layton, et al.* 2:08-cv-0708
23. *Wing v. Lee* 2:09-cv-0377
24. *Wing v. Lionel Sawyer & Collins* 2:09-cv-0389
25. *Wing v. Mather, et al.* 2:09-cv-0398
26. *Wing v. Moore, et al.* 2:09-cv-0394
27. *Wing v. Nathenson, et al.* 2:09-cv-0109
28. *Wing v. Nelson, et al.* 2:09-cv-0326
29. *Wing v. Oliver, et al.* 2:09-cv-0401
30. *Wing v. Prosperity Education Institute* 2:09-cv-0341
31. *Wing v. Scholer* 2:09-cv-0371
32. *Wing v. Stirland, et al.* 2:09-cv-0304
33. *Wing v. Marilyn M. Southwick, et al.* 2:08-cv-0676
34. *Wing v. Titus, et al.* 2:09-cv-0390
35. *Wing v. Wahoo Investments LLC* 2:09-cv-0405
36. *Wing v. Wharton III, et al.* 2:08-cv-0887
37. *Wing v. Williams* 2:09-cv-0399
38. *Wing v. Winnick* 2:09-cv-0117

39. *Wing v. Woodbury & Kesler* 2:09-cv-0402

These suits are in their early stages. Some motions were argued on April 20, 2009. Other motions are being scheduled for hearing. Discovery is ongoing in other cases, and about twenty depositions have been taken.

The Receiver has reached settlement with the following potential defendants:

1. Ernest B. Iseminger
2. Blair F. Hadley and BFH Consulting, Inc.
3. Paul and Karen Beard
4. Ronald D. Wells
5. Lavarr Webb and Webb Consulting
6. Archie N. Stone, Sharon S. Stone and the Sharon S. Stone Family Trust

Five (5) of these settlements have been approved by the Court and the Receiver is in the process of obtaining approval on the remaining settlement. The Receiver is in negotiation with several other defendants.

The Receiver continues to investigate potential claims.

### **FORENSIC ACCOUNTING**

Gil Miller and his colleagues at PricewaterhouseCoopers continue to analyze accounting records, and have recently provided the Receiver an updated report of VesCor receipts and disbursements. The Receiver is using this report to determine which

individuals and entities received money from VesCor to which the Receiver believes they were not entitled.

Mr. Miller has also recently completed his third declaration, which has been filed with this Court. He analyzed data from the year 2000 forward, and concludes that VesCor exhibited the following characteristics, at least since that year:

- It used money from new investors to pay interest to old investors. It was dependent on new investor money for its survival.
- It commingled funds.
- It always operated at a loss. According to a tax record, VesCor Capital Corporation suffered losses of more than \$112 million from 1991 to 2005. It suffered losses each year, culminating in a loss of more than \$22 million in 2005.
- It made numerous misrepresentations to investors.
- Certain investors were treated preferentially.

In his declaration, Mr. Miller identified these characteristics as common in Ponzi schemes.

DATED this 5<sup>th</sup> day of May.

**PRINCE, YEATES & GELDZAHLER**

/s/ Robert G. Wing  
Robert G. Wing  
Receiver

## CERTIFICATE OF SERVICE

I hereby certify that on the 5<sup>th</sup> day of May, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which sent notification of such filing to the following:

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/s/ Michelle T. Henderson

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