



## **RECEIVER'S FOURTH UPDATE TO INVESTORS, September 9, 2020**

### **PRIOR UPDATES**

This report follows four others that collectively provide a substantial amount of information about the American Eagle Mortgage Receivership. These prior reports to AEM investors are:

1. First Update, August 1, 2019: general introduction to the Receivership and issues related to the Receivership Pools and Management Company.
2. Second Update, September 18, 2019: overview of the Pools' assets and the Receiver's potential litigation claims.
3. Supplement, November 19, 2019: results of the real estate auction.
4. Third Update, February 26, 2020: ongoing sale and maintenance of assets, filing of litigation against various parties, future case outlook, and 2019 tax information.

The Receiver has also filed four formal reports with the Court concerning the financial condition and affairs of the Receivership Pools. These formal reports are:

1. Report filed October 31, 2019, covering the period May 10, 2019, through June 30, 2019, and the quarter ending September 30, 2019.
2. Report filed January 31, 2020, covering the quarter ending December 31, 2019.
3. Report filed April 30, 2020, covering the quarter ending March 31, 2020.
4. Report filed July 24, 2020, covering the quarter ending June 30, 2020.

The formal reports include statements of sources and uses of cash as well as detailed listings of the Receivership's assets. All of the reports mentioned here are posted in the Documents section of the [www.AEMinvestors.com](http://www.AEMinvestors.com) website.

## DEFINITIONS AND CAPITALIZED TERMS

<b>AEI</b>	American Equities, Inc.
<b>AEM</b>	American Eagle Mortgage
<b>AEMM</b>	American Eagle Mortgage Management, LLC
<b>Affiliated Parties</b>	Business and/or investment vehicles operated by Ross Miles and/or Maureen Wile that are not part of the Receivership. This term may also refer to the people involved in managing or benefiting from Affiliated Party entities.
<b>Management or Company</b>	AEI as Manager of the Pools, and later (in practice) AEMM
<b>Pools or Receivership Pools</b>	The 15 entities that are part of this Receivership, also referred to as the Receivership estates
<b>REO</b>	Real estate owned by the Receivership Pools, typically due to foreclosure
<b>BPO</b>	Broker Price Opinion, a real estate broker's estimated valuation of a property.
<b>Stream</b>	A type of real estate receivable where a certain number of payments, referred to as a payment "stream", has been sold to another party. The Pools have both sold payments from contracts they own and purchased payments from other parties.

## INTRODUCTION

The Receivership has been in place for 16 months. Early in the Receivership, the focus was on liquidating real estate, recovering collateral underlying failed loans, and improving the performance of the contract portfolio. As the majority of the U.S. real estate has been sold and the contract portfolio is now performing well overall, the Receiver's focus has shifted to pursuing litigation claims.

The first section of this report discusses ongoing litigation, the pending criminal investigations, and the plan of distribution. The second section gives an update on the liquidation of assets.

# SECTION 1: Litigation, Criminal Investigations, and Plan of Distribution

## LITIGATION

The Receiver has identified three general classes of litigation claims that it believes have sufficient merit to be sources of recovery for the estate: unpaid related party loans; breaches of fiduciary duty; and instances of preferential treatment to certain AEM investors.

All complaints filed by the Receiver are based on detailed and thorough investigation by the case manager, Hannah Schmidt, and AEM's forensic accountants, Michael Ueltzen and Paul Artley. No claim has been or will be made without clear supporting evidence. Before a complaint is filed, each case is analyzed for the quality and quantity of evidence supporting the claims asserted, the likelihood of prevailing in the litigation, the cost of litigation, and the ability of the defendants to satisfy any judgment that might be obtained.

For example, in the case against Miles, Wile, AEI, and AEMM, the Receiver believes that the evidence is solid and that the likelihood of obtaining a judgment against them is high, but the ability to recover all that the Receiver contends is owed by them to the Pools is much less certain. However, there is reason to believe there are enough assets owned by Miles and Wile that the Pools will receive a partial recovery that will exceed the expected cost of pursuing the lawsuit. These same principles are applied to the other cases in determining whether filing a lawsuit is warranted.

In February and March of 2020, the Receiver filed eight separate lawsuits against various parties in the Clark County Superior Court. Four of these cases have been resolved through settlement or by entry of default judgments in favor of the Receiver. An upcoming court hearing set for September 11 will address open matters in the four ongoing cases. Investors wanting to observe this hearing can do so by following the virtual meeting instructions for Judge Gregerson's courtroom that are available on the Clark County Superior Court website at this [link](#). The case dockets can be found at bottom of the Documents section of the [www.AEMinvestors.com](http://www.AEMinvestors.com) website. A brief description and status of each case follows.

- Hanes Zoller Limited Partnership – On April 23, 2020, the Court approved a settlement with Hanes Zoller for \$120,829.04 related to two loans and accrued interest totaling \$155,438.04. These funds have been received and the complaint against Hanes Zoller was dismissed.
- Ridgecrest Development II, LLC, Ridgecrest Development III, LLC and American Securities Inc – The cases against these three entities relate to unpaid loans and accrued interest totaling \$2.6M. The entities did not respond to the complaints and the Receiver obtained default judgments. The Receiver has registered the judgments in Cowlitz County, Washington, and in Washington, Columbia, Linn, Morrow, and Clatsop Counties in Oregon, and is pursuing garnishments on two small outstanding loans held by these entities. As of the date of this report, the Receiver has collected \$50,000 on these judgments.
- RC Hanes Limited Partnership – This case relates to an unpaid loan and accrued interest for \$845,000. A scheduling conference will be held on September 11.
- American Equities Inc, American Eagle Mortgage Management LLC, Ross and Beverly Miles, Maureen and Robert Wile, and Pacific Premier Bank – This case is for collection of outstanding loans and for damages related to mismanagement and breaches of fiduciary duty. AEM records indicate that loans totaling \$3.4M in principal amount were made to AEI, Miles, and Wile. AEI, Ross and Beverly Miles, and Robert Wile have responded to the complaint denying the allegations, and Maureen Wile has filed a motion to stay the case while the criminal investigation concerning her is pending and unresolved. This motion will be heard on September 11.  
  
The complaint was amended on August 28, 2020, to add Pacific Premier Bank as a defendant, alleging claims for breach of fiduciary duty, aiding and abetting AEI and AEMM's breach of fiduciary duty, and negligence on the part of the bank.
- Danielson Contractors, et al. – The Receiver filed a complaint against Danielson Contractors Inc., Donald Danielson, and David Danielson for \$554,115.38 in relation to an equipment loan made by AEM Mexico 300 to Danielson Contractors Inc. in 2006. The defendants answered the complaint on April 29 alleging the promissory note originated

from a blank sheet of paper they signed. They have also filed a motion for judgment on the pleadings, and the Receiver has filed a motion to amend the complaint to assert additional claims. Both motions will be heard on September 11.

- George Frank Trust and IRA– The Receiver filed a complaint against the Trustee of the George D. Frank Revocable Trust (the “Frank Trust”) and of the George D. Frank IRA (the “Frank IRA”), investors in multiple Pools. The Receiver seeks to clawback \$1.4 million in payments made by AEM Mexico 600 to the Frank Trust and the Frank IRA between January 2011 and March 2019 and asks the court to impose a constructive trust on the mortgage lien that the Frank Trust and the Frank IRA obtained on real property in Mexico that was given to them on account of their Pool investments. The Receiver maintains the lien should have been granted to AEM Mexico 600 rather than to the Frank Trust and the Frank IRA. A scheduling conference will be held on September 11.

## **REGULATORY INVESTIGATIONS**

Many investors have reached out asking about the potential for criminal charges being brought against AEI, Ross Miles, and Maureen Wile. The Receiver is cooperating with ongoing federal and state criminal and regulatory investigations into the activities of Miles, Wile, and AEI, including those related to the Pools that are the subject of this Receivership.

## **TIMING OF THE RECEIVERSHIP**

When the Receivership was filed in May 2019, the Receiver expected that the Receivership proceeding could be fully administered and distributions to investors made within 24 months. However, after a thorough assessment of records and gaining an understanding of the complexities of the case, it became apparent that the Receivership would need to stay open for longer than initially expected. Among these complexities are the Pools’ loans related to properties located on Mexico’s Baja California Peninsula. These loans make up a substantial portion of the value of the Pools’ assets, and the legal process of foreclosing on property in Mexico is cumbersome, uncertain, and expensive. The time (up to 5 years) and cost (up to 35% of property value) of legal foreclosure proceedings in Mexico are some of the reasons that the

Receiver is recommending settlements in relation to many of the Mexico loans<sup>1</sup>. Even with the proposed settlements, the monetization of the Pools' Mexico assets is anticipated to take three to five years due to the volume of and related demand for the properties involved. The pending litigation is expected to continue for the next six to 18 months. While the Receivership is open to administer these matters, the Receiver will continue to hold and collect on the Pools' real estate contracts instead of selling them at a discount. It will also continue the pursuit of litigation claims. The Receiver also intends to take action that will permit it to periodically distribute funds to investors in accordance with a court-approved plan of distribution. The Receiver expects to present a proposed distribution plan to the court later this year and anticipates having enough cash on hand to make an initial distribution in late 2020 or early 2021.

#### **REMARKS CONCERNING ISSUES TO BE ADDRESSED IN THE PLAN OF DISTRIBUTION**

One of the many challenges the Receiver faces is presenting the court with a plan of distribution that is equitable to the investor group as a whole. Over the 17 years that the AEM Pools operated, some investors received interest payments every month while others reinvested their interest earnings and increased their investment balance. The Receiver believes that a plan of distribution should consider that dynamic as well as others that are peculiar to the Pools. Among other things, certain investors contributed non-cash assets to the Pools or obtained their investments in the Pools by rolling over their investments in non-Receivership entities controlled by Ross Miles without contributing assets to the AEM Pools and only certain investors (e.g. the Oregon investors) have the potential to obtain recoveries in respect of their investments in the Pools from sources other than the Receivership. The Receiver will attempt to address these inequities in a plan of distribution that it will propose using precedents from federal Ponzi scheme cases.

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<sup>1</sup> See section 2 of this report related to an update on the Mexican assets and discussion on continued contract collection.

## SECTION 2: Liquidation of Assets

### DOMESTIC REAL ESTATE CONTRACTS

#### 1. Overview

When the Receiver was appointed in May 2019, the Receivership Pools' contract portfolio consisted of 146<sup>2</sup> domestic real estate contracts with third parties and 23 partial purchase agreements (commonly referred to as "streams"). As of August 31, 2020, there were 108 contracts and 16 streams. Table 1 summarizes activity during the Receivership period.

**Table 1: Summary of Contracts**

	May 2019	Aug 2020	Change	
Type	# of contracts			Decline in contracts attributed to:
Real Estate Contracts	146	108	-38	Paid off
Streams	16	10	-6	Normal course
Stream Remainders	7	6	-1	In response to demand letter
<b>Total</b>	<b>169</b>	<b>124</b>	<b>-45</b>	Became REO
				Contract Sold
Performing	137	116	-21	Pool did not have ownership
Delinquent	32	8	-24	Abandonment due to poor collateral
<b>Total</b>	<b>169</b>	<b>124</b>	<b>-45</b>	<b>Total</b>
				<b>45</b>

As of August 31, 2020, the face value of the 124 real estate contracts and streams was \$4,611,927.81, which is approximately \$2 million less than the May 2019 balance.

#### 2. Continued Note Collections

Previous updates have discussed the Receiver's plan to sell the real estate contracts in bulk. In January of this year, multiple investors reached out to ask that the Receiver consider holding the high-quality contracts in a trust for the benefit of investors. In response to this request the Receiver performed a cash flow analysis of the contacts owned by the Receivership, concluding, in agreement with the investors, that recovery from the contracts will be higher if the Receiver continues to hold them. To avoid relying on the staff of AEM to provide collection services, the

<sup>2</sup> The previous update to investors omitted six contracts and one stream.

Receiver asked the court to approve the employment of Evergreen Note Servicing to take over servicing of the contract portfolio. This change became effective on July 1, 2020.

The Receiver anticipates that the COVID-19 pandemic will impact cash flow from contract collections. To date, five borrowers have reached out asking for relief and two others are being monitored for non-payment. The Receiver is granting a 120-day payment deferral to borrowers whose accounts were current prior to COVID-19 and who have been negatively impacted by the pandemic. An example of a negative impact would be loss of a job.

### **3. Delinquent Contracts and Foreclosures**

Since taking over the portfolio in May 2019, the Receiver began a concerted effort to improve the overall quality of the portfolio. The Receiver has reduced the total number of delinquent contracts from 32 to eight over the past 16 months in the following ways:

- Nine borrowers have paid off their loans as a result of demand letters.
- Ten borrowers have cured their defaults and are now current and making regular payments as scheduled.
- In August, the Receiver took possession of two properties: one for 20 acres in Newport, WA with two mobile homes in poor condition, and one of approximately 38 acres of unimproved land in Grangeville, ID. These properties will be listed for sale and reported in the real estate section in future updates.
- The Receiver anticipates writing off two contracts in Arizona that have low quality collateral in the form of rural unimproved land. Based on the Receiver's experience with similar Receivership properties, it believes that the estimated value of the collateral securing these two contracts is lower than the estimated cost to obtain title, take possession, and sell the collateral.

The remaining eight delinquent contracts are in various stages of foreclosure in Arizona, California, Idaho, Montana, and Washington. The Receiver anticipates that either the borrowers will refinance and pay off their loans, or the Receiver will take possession of and subsequently liquidate the real estate collateral.



## **MEXICO ASSETS**

AEM made a series of loans supported by underlying collateral located in Baja California Sur (BCS), Mexico. In May 2019 all but one of these loans was delinquent. Progress on these loans has been slow, in part because BCS was shut down on March 30, 2020, due to the pandemic. The area began reopening on June 15, and courts and many governmental offices are now open. At the time the Mexican courts closed, the Receiver was in the process of creating a Mexican subsidiary to take title to the properties underlying the delinquent loans. This subsidiary is necessary due the complexities and tax implications of a foreign entity owning property along Mexico's coastline.

The Receiver has negotiated pending settlements with two borrowers. The settlement with Valerio Gonzalez has been approved by the court, and the proposed settlement with Dieter Auerbach will be described in a notice to be given to investors later this month. Both of these settlements are discussed in more detail below.

This section describes the status of the Mexican loan portfolio, with a summary in Table 2.

### **1. Valerio Gonzalez Settlement: Tamar Condos/Hacienda Los Cabos E-2/East Cape/Todos Santos**

The AEM Pools made loans to Valerio Gonzalez totaling approximately \$1.7M. Some of these loans were unsecured; others are secured by four condominiums and a piece of property on the East Cape of BCS that are worth less than the amounts owing on the loans. On June 3, the Clark County Superior Court approved a settlement with Valerio Gonzalez. Under this settlement, which is currently evidenced by a letter of intent signed by the Receiver and Mr. Gonzalez, the Receiver will enter into a series of agreements with Gonzalez in order to resolve his loans with the AEM Pools. The basic provisions contemplate entry into definitive agreements that will:

- Grant the Receiver deeds in lieu of foreclosure on units of the Tamar and Hacienda del Cabo condominium properties in Cabo San Lucas, Mexico
- Provide additional security via a property in Todos Santos, BCS, for the remaining unsecured debt

- Award the property in Todos Santos and on the East Cape to the Pools through a Mexican judicial order
- Create a joint venture for the development and sale of the Todos Santos and East Cape properties in which Gonzalez will fund the development, these development costs will be repaid from the sale proceeds, and profits from the sale of lots will be split 80% to the Receivership and 20% to Gonzalez.

The Receiver anticipates having possession of the four condominiums later this year. All are currently vacant and can be listed for sale once the Receiver acquires title to the condos. The East Cape property has the potential to be subdivided into as many as 90 lots. Presently, 23 lots have been plotted and can be marketed for sale. The Todos Santos property has the potential to be subdivided into as many as 37 lots, which will likely occur in 2021. The amount realized by the Receiver under the proposed settlement will depend on the outcome of the development and sale of real property in BCS, among other things. The Receiver estimates, however, that the Receivership estate will realize recoveries in the range of \$2 million to \$3 million over the next three to five years.

## **2. Dieter Auerbach Proposed Settlement: Casa Villa Montaña/Duplex Cabo Bello**

Dieter Auerbach was served with demand letters, and foreclosure actions were filed against both properties. Auerbach and the Receiver have orally agreed to settle the pending litigation on the two properties. Subject to approval by the Clark County Superior Court, Auerbach will make a \$110,000 USD payment and sign over Casa Villa Montaña, a 4 bedroom single family home in the Pedregal development in Cabo San Lucas. In exchange, the Receiver will release its security interest in the duplex. The Receiver believes settlement is the best course of action in the circumstances, as it will allow the Casa Villa Montaña property to be listed for sale this fall, will save time and legal fees related to a judicial foreclosure, and will provide a certain outcome where the outcome of a judicial foreclosure is not guaranteed.

## **3. Villas de Oro Properties: Villa Lirio 103 y Villa Rosa 106**

The Receivership and Villas de Oro executed a deed in lieu agreement whereby Villas de Oro agreed to transfer title to both condos as payment in kind of the debt. The settlement was

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submitted to and approved by the Mexican court and therefore now constitutes a final binding res judicata judgment. The process of titling the property in favor of AEM's Mexican subsidiary is underway and the Receiver anticipates taking possession of the two condos this fall. In the meantime, the Receivership enjoys the possessory rights to both condos, one of which is being rented out and the other is under repair.

#### **4. Cabo Real**

The borrowers were served with a demand letter and failed to formally respond. The Receiver has filed a foreclosure action in the Mexican court, and an officer of the court is trying to serve the borrower with notice of the litigation. The Receiver anticipates the borrower may show renewed interest in settling once the borrower has been served with the notice.

#### **5. La Paz**

The Receiver's team has not been able to locate this borrower, so the demand letter may have to be served via publication. The development in La Paz where this property is located has been the subject of litigation, and the Receiver's Mexico counsel has indicated that this litigation may cloud the title. A more detailed title search is underway on this property.

#### **6. Casa Napita**

Once served with the demand letter on May 13, the borrower immediately reached out to the Receiver, showing good faith and an intention to negotiate. The borrower has orally agreed to make monthly payments through September, at which time the Receiver will review the market conditions and resume settlement negotiations. At the time of this report, the borrower has made all agreed payments in a timely manner.

#### **7. Rancho Paraiso**

Due to the de minimis loan balance of approximately \$15,000, no formal action has been taken by the Receiver with regard to this loan.

Table 2: Mexican Assets				
	Common Name	Type	Status	BPO
Settlements In Process				
1-3	Tamar Condos	3 Condos	Settlement anticipated	\$190,000 each
4	Villas de Oro - Lirio	Condo	Deed-in-lieu pending	\$415,000
5	Villas de Oro - Rosa	Condo	Deed-in-lieu pending	\$415,000
6	Hacienda Los Cabos - E2	Condo	Settlement anticipated	\$85,000
7	Villa Montana	Single Family Residence	Settlement anticipated	\$500,000
8	Cabo Belo	Duplex	Settlement anticipated	\$350,000
9	East Cape	Land	Settlement anticipated	Unknown
10	Todos Santos	Land	Settlement anticipated	Unknown
Demand Letters Served				
11	Casa Napita	Single Family Residence	Resumed monthly payments	Unknown
Demand Letters in Process				
10	La Paz	Land	Locating debtor	Unknown
11	Rancho Paraiso	Single Family Residence	Contacting debtor	Unknown
Litigation Pending				
14	Cabo Real	Single Family Residence	Foreclosure proceeding	\$600,000

## DOMESTIC REAL ESTATE OWNED

### 1. Washington, Oregon, and California

Sales from properties offered in the RMNW auction have produced just under \$2 million as of September 9, 2020. Four properties remain unsold with current status as follows:

- Three remaining properties in California, consisting of two low value properties in Tehachapi and a commercial property in Yucca. The Receiver plans to list these properties for sale with local agents this fall.
- A 50% interest in a residential lot in Zig Zag, Oregon. This property will be listed for sale with a local agent and offered in the RMNW spring auction if it remains unsold.

**Table 3: Auction Properties**

	<b>Count</b>	<b>Estimated value</b>	<b>Winning Bid</b>	<b>Net Proceeds</b>
Closed Sales	30	\$ -	\$ 2,299,413.00	\$ 1,928,514.33
Pending Sales	0	\$ -	\$ -	\$ -
Re-offering (Auction)	0	\$ -	\$ -	\$ -
Not Sold	4	\$ 150,000	\$ -	\$ -
<b>Total</b>	<b>34</b>	<b>\$ 150,000</b>	<b>\$2,299,413.00</b>	<b>\$1,928,514.33</b>

### 2. Other States

The Receivership originally owned 28 REOs outside of Oregon, Washington, and California. As of the date of this report, 18 properties have been sold and ten properties—Arizona (4), Nevada (4), and New Mexico (2)—remain unsold. Six properties are actively listed, and three

remain unlisted due to their remote location or low value. Table 4 summarizes the current status of this group of properties.

**Table 4: Non-Auction Properties**

	<b>Count</b>	<b>BPO value*</b>	<b>Listing Price</b>	<b>Offer Amount</b>	<b>Net Proceeds</b>
Sold	18	\$381,050.00	\$ 367,099.00	\$ 302,750.00	\$ 260,355.34
Pending	0	\$ -	\$ -	\$ -	\$ -
Listed	6	\$151,000.00	\$ 159,800.00	\$ -	\$ -
Not Listed	3	\$ 50,500.00	\$ -	\$ -	\$ -
<b>Total</b>	<b>28</b>	<b>\$582,550.00</b>	<b>\$ 536,899.00</b>	<b>\$ 302,750.00</b>	<b>\$260,355.34</b>