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*Attorneys for Geoff Winkler Receiver for
CapSource, Inc., et al.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CAPSOURCE, INC., STEPHEN J. BYRNE,
and GREGORY P. HERLEAN

Defendants.

Case No. 2:20-cv-02303-RFB-DJA

**NINTH STATUS REPORT OF GEOFF
WINKLER, RECEIVER CAPSOURCE,
INC.**

Geoff Winkler of American Fiduciary Services, LLC (the "Receiver"), the Court-appointed receiver for defendant CapSource, Inc., submits his Ninth Quarterly Report ("Report") for the period July 1, 2024 through September 30, 2024 ("Reporting Period"), regarding the receivership pursuant to Local Rule 66-4(b).

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1 **I. PRELIMINARY STATEMENT**

2 As reflected in the Court's record and discussed further in this Report, the Receiver has
3 been authorized, empowered, and directed to, among other things: (1) take exclusive authority and
4 control over the Receivership Defendant; (2) conduct such investigation and discovery as
5 necessary to identify and locate outstanding assets of the Receivership Defendants; (3) preserve
6 and prevent the dissipation of such assets.

7 The Receiver has diligently pursued these goals since August 26, 2022, at the inception of
8 the receivership. As detailed herein, since the entry of the Order Appointing Receiver (the
9 "Appointment Order") (ECF. No. 17), the Receiver has made substantial progress, particularly in
10 taking possession of CapSource files and inventory and beginning analysis of same; review of
11 investor list and communication with investors; analyze accounting records; communication with
12 defendants; evaluating assets and properties of the estate; assessment of income and investor
13 payment options; evaluating and terminating a lease; analysis of ancillary proceedings and
14 communication with counsel; processing account information; evaluating estate needs including
15 tax issues; preparation of financial and quarterly reports; communication with SEC regarding
16 pending matters; and preparation of stipulations and court filings. However, because the Receiver's
17 work is ongoing, the conclusions presented herein are preliminary and subject to modification or
18 supplementation as more information becomes available.

19 As of the date of this Report, the Receiver has not completed an investigation or accounting
20 of principal reduction loans, however active loans have been reviewed for the purpose of interim
21 distributions.

22 **II. SUMMARY OF THE RECEIVER'S OPERATIONS (LR 66-4(b)(1))**

23 ***A. THE RECEIVER'S INVESTIGATIVE AND MARSHALLING ACTIVITIES***

24 The Receiver and his counsel continued to work through legal proceedings involving
25 CapSource, all of which are currently stayed or dismissed. None of these legal proceedings were
26 previously disclosed to the Receiver in his capacity as either Receiver or CRO. Additional
27 information on this matter can be found in section V, subsection A.
28

1 During this reporting period the Receiver made his fourth distribution under the Order
2 Granting Receiver's Motion for Approval of 1) Interim Distribution Plan; and 2) Procedures for
3 Disposition of the Estate's Interests in Certain Real Property filed August 2, 2023. The Receiver
4 distributed \$799,457.03 across 3 outstanding loans and 139 investors, although not all checks have
5 cleared. The Receiver and his team are working with the individuals with returned checks or
6 similar distribution questions. The Receiver has reissued checks for individuals he has
7 communicated with who didn't receive their distribution. The Receiver will continue to make
8 distributions quarterly when funds allow, in accordance with the distribution order.

9 Per investor requests, the Receiver and his team have continued to investigate investments
10 and other outstanding loans that are not included in the list of outstanding note receivables below.
11 Investors continue to provide additional information, and the Receiver is reviewing additional
12 documentation provided by CapSource. The Receiver will inform the court of his findings on this
13 investigation in future reporting periods.

14 A description of all assets in the custody and control of the Receiver is included in Section
15 III, below.

16 ***B. INVESTOR AND CREDITOR COMMUNICATION***

17 The Receiver has continued to update the investor website ([http://www.capsource-](http://www.capsource-receivership.com)
18 [receivership.com](http://www.capsource-receivership.com)). The Receiver and his team have continued to review registration forms directly
19 from investors and invite investors who have not done so yet, to do so at their earliest convenience
20 (<http://www.capsource-receivership.com/register>). The investor list as of September 30, 2024, had
21 approximately 637 individuals.

22 ***C. THE RECEIVER'S FORENSIC ACCOUNTING ACTIVITIES***

23 In a previous reporting period, the Receiver and his team received information from
24 WestStar to review outstanding loans and created a money-in money-out (MIMO) analysis for
25 each of the investors. This analysis was completed and included all loan transactions for the
26 outstanding loans and principal reduction loans. The Receiver anticipates the principal reduction
27 loan analysis will be complete in a future reporting period.
28

III. INVENTORY OF ASSETS AND ESTIMATED VALUE (LR 66-4(b)(2))

A. CASH

The Standardized Fund Accounting Report for the period is attached to this report as Exhibit A. The cash received this period is \$5,822 from interest on money held in the receivership estate bank account.

B. NOTES RECEIVABLE

The notes receivable secured by the Receiver during the Reporting Period consist of:

<i>Loan Name</i>	<i>Loan Number</i>	<i>Original Outstanding Balance</i>	<i>Q3 2024 Receipts</i>	<i>Estimated Remaining Value¹</i>
5th Avenue Estates	22208	\$857,313	\$0	\$0
Texas 156	20910	\$42,000	\$0	\$18,548
Texas 156	22067	\$106,521	\$0	\$47,042
Texas 156	22982	\$111,883	\$0	\$49,410
King 261	23722	\$515,000	\$0	\$0
Meadows 78	23587	\$1,327,500	\$0	\$0
Fillmore RE Partners	20501	\$559,388	\$0	\$315,029
JC Commercial	23899	\$1,510,000	\$0	\$0
ARC RE	Option 3	\$11,015,737	\$0	\$7,146,319
<i>Approximate Total</i>		<i>\$16,045,342</i>	<i>\$0</i>	<i>\$7,576,349</i>

The Receiver invites the Court and all interested parties to review the First Status Report (ECF No. 21) for a general summary of the relevant information for each of the outstanding notes listed below. The following information will include the most recent updates that have transpired.

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¹ Estimated value that is subject to further revision.

1 **A. Texas 156**

2 As stated in previous reports, the Receiver has been presented with an offer from the
3 borrower for the remaining four lots. In this Reporting Period, the Receiver worked through
4 various lien releases necessary before a PSA can be signed. This is expected to be resolved in the
5 next reporting period. The Receiver believes ten investors are due payments to recover their
6 principal. Investors not included in this recovery will have the opportunity to file a claim.

7 **B. 5th Avenue Estates**

8 As discussed in a prior status report (ECF No. 28), the last parcel for 5th Avenue Estates
9 was sold on October 26, 2022, and proceeds were received by the Receivership Estate on October
10 27, 2022. During a previous reporting period, distributions were made per Order (ECF No. 61) up
11 to 100% of principal investment.

12 **C. King 261 and Meadows 78**

13 King 261 and Meadows 78 were sold in the previous reporting period. In this reporting period,
14 the Receiver distributed the proceeds from the sale in accordance with the Order (ECF No. 61).

15 **D. Fillmore Real Estate Partners**

16 The Receiver anticipates the sale to close in the first quarter of 2025. As stated in previous
17 reports, the Receiver has been presented with an offer from the borrower and the borrower
18 reviewed and continued to add language to the Purchase and Sale Agreement. In the Reporting
19 Period, the Purchase and Sale Agreement was executed.

20 **E. JC Commercial**

21 During the Reporting Period the Receiver distributed the proceeds from the sale in the previous
22 reporting period in accordance with the Order (ECF No. 61). Due to the lien reconveyance, no
23 further funds for JC Commercial will be received. Investors that maintained a loss are encouraged
24 to file a claim once the claims process begins.

25 **F. ARC RE**

26 As noted in the previous reporting period, a settlement was reached between the SEC and
27 ARC RE that was approved on June 29, 2024 (Securities and Exchange Commission v. America's
28

1 Rehab Campuses, LLC, U.S. District Court for the District of Nevada, Case No. 2:20-cv-02308-
2 JCM-DJA). This influenced Option 3 investors, who received distributions and consequently will
3 reduce their principal amount within the CapSource receivership, affecting future interest. The
4 Receiver and his team continue to meet with ARC's consultant, counsel, and CEO. Details of this
5 period's meetings are below.

6 In the Reporting Period the Receiver and ARC's team discussed a timeline for monthly
7 payments. It was determined that payments will begin in the following reporting period, with any
8 postponed payments added to the outstanding balance.

9 Provide payments are as scheduled, distributions will resume in February 2025 per the
10 motion (ECF No. 61).

11 **IV. SCHEDULE OF RECEIVER'S RECEIPTS & DISBURSEMENTS (LR 66- 4(b)(3))**

12 Below is the schedule of Receiver's Receipts and Disbursements pursuant to the Order
13 Appointing Receiver and Local Rule 66-4(b)(3).

14 **A. *EAST WEST BANK RECEIVERSHIP ACCOUNT (A/E 0057)***

- 15 • Balance (07/01/24): \$ 2,156,330.11
- 16 • Total inflows: \$ 5,822.01
- 17 • Total outflows: \$ 875,964.09
- 18 • Balance (09/30/24): \$ 1,286,188.03

19 See Exhibit B for a complete list of transactions.

20 In addition to the foregoing, please see the Standardized Financial Accounting Report
21 attached as Exhibit A and the Summary Cash Flow Statement and Summary Balance Sheet
22 attached as Exhibit C.

23 **V. OTHER ITEMS TO REPORT**

24 **A. *CURRENT AND FUTURE LITIGATION***

25 **Future Litigation**

26 As previously reported, the Receiver is investigating potential third-party claims against at least
27 three parties relating to actions that the Receiver believes harmed CapSource and its investors. In
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furtherance of the same, the Receiver intends to send out demand letters during the next reporting period to attempt to resolve matters without the need for litigation. If those efforts are not successful and litigation deemed necessary, the Receiver will file an appropriate request with the Court before initiating the same. The Receiver anticipates making any such motions during the next reporting period or first reporting period of next year.

Additionally, as new information is provided to the Receiver, his team will continue to investigate potential claims and available mechanisms to recover funds for the receivership estate.

Ancillary Proceedings

A summary of previously identified actions which the Receiver believes qualify as an “Ancillary Proceeding” under Section VII of the Order Appointing Receiver are set forth in the table below. No new legal proceedings were identified in this reporting period. However, as noted in the table below, the plaintiff in CAC Investment Ventures, LLC et al. v. Andrew Jolley et al., contacted the Receiver, through counsel, after the close of the Reporting Period. Following a trial of the matter, the plaintiff would now like to dismiss CapSource from the litigation. The Receiver is awaiting a draft stipulation of dismissal from counsel for the plaintiff and anticipates reporting a dismissal of the action as to CapSource in the Receiver’s next status report.

PARTIES/CASE NAME	COURT	CASE NO.	STATUS
<i>CAC Investment Ventures, LLC et al. v. Andrew Jolley et al.</i>	NV Eighth Judicial District Court	A-19-802088-B	Stayed as to CapSource, other parties proceeding to trial; <i>plaintiff now seeking dismissal of CapSource</i>
<i>Entrust Group fbo Paul Uwe Pawlik v. Southern Highlands Community Association, et al.</i>	NV Eighth Judicial District Court	A-22-848762-C	CapSource dismissed
<i>CapSource, Inc. v. Bosch, et al.</i>	NV Eighth Judicial District Court	A-21-834367-C	Case dismissed
<i>CapSource v. Texas 156, LLC, Michael B. Zipprich, and Joseph A. Bond, III</i>	District Court of Midland County, Texas	CV56854	Case dismissed
<i>ARC RE v. Americans Rehab Campuses, LLC and Arizona Rehab Campuses LLC</i>	NV Eighth Judicial District Court	A-21-8385920B	Case stayed

PARTIES/CASE NAME	COURT	CASE NO.	STATUS
<i>Arizona Rehab Campuses, LLC et. al. v. CapSource, Inc. et. al.</i>	NV Eighth Judicial District Court	A-23-869439-B	Notice of Stay Order filed
<i>5th Avenue Estates, LLC et. al. v. CapSource, Inc. et. al</i>	NV Eighth Judicial District Court	A-23-869523-B	Notice of Stay Order filed
<i>Texas 156, LLC et. al. v. CapSource, Inc. et. al</i>	NV Eighth Judicial District Court	A-23-869520-B	Notice of Stay Order filed
<i>Vantage Holdings, LLC, et al. v. Capfactor LLC et al.,</i>	NV Eighth Judicial District Court	A-22-850573-B	Case stayed as to CapSource pursuant to Stipulation and Order entered by this Court on 10/25/23 (ECF No. 66)

The Receiver will continue to review and evaluate litigation matters that may impact the Receivership Estate as information becomes available.

VI. RECOMMENDATION OF THE RECEIVER (LR 66-4(b)(5))

At this juncture, the Receiver has evaluated the outstanding loans and identified the investors related to these loans. The Receiver recommends that the receivership continues to identify assets and claims and pursue them for the benefit of the Receivership Estate, and he will continue to evaluate loans that received principal reductions.

Additionally, if the Court would like an opportunity to canvas the Receiver, the Receiver requests that the Court promptly set an in-person or virtual hearing under Local Rules 66-4(b) and/or 66-5. *See* LR 66-4(b) and 66-5 (governing proceedings related to the activities of court-appointed Receivers). The Receiver and his counsel will endeavor to make themselves available for any date(s) the Court proposes on fourteen days' notice, as contemplated by Local Rules 66-4(b) and 66-5, or less, as the Court may order. *See id.*

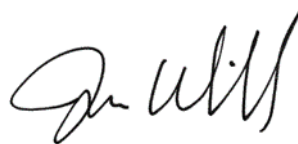
VII. CONCLUSION AND REQUESTED RELIEF

Assuming the Court authorizes the Receiver to undertake the actions recommended herein, as well as to continue those actions provided for in the Appointment Order, any amendments thereto and any subsequent orders, the Receiver proposes to submit further interim reports to this Court, addressing his progress, findings, final conclusions, and additional recommendations,

1 approximately every 90 days. Accordingly, and based on the foregoing, the Receiver respectfully
2 requests that the Court set a hearing and/or enter an order:

- 3 1. Accepting this Ninth Status Report;
- 4 2. Authorizing the Receiver to continue to administer the Receivership Entities and their
5 estate in accordance with the terms of the Appointment Order;
- 6 3. Authorizing the Receiver to undertake the recommendations presented herein, including
7 a continued engagement of those professionals he deems necessary for the proper administration
8 of the Receivership Entities and their estate; and
- 9 4. Providing such other and further relief as the Court deems necessary and appropriate.

10 I, Geoff Winkler, verify under penalty of perjury that the statements made in the foregoing report
11 are true and correct to the best of my knowledge.



Geoff Winkler, Receiver

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16 DATED this 5th day of November 2024.

GREENBERG TRAUIG, LLP

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19 By:

KARA B. HENDRICKS, Bar No. 07743
KYLE A. EWING, Bar No. 014051

Attorneys for Receiver Geoff Winkler

CERTIFICATE OF SERVICE

I hereby certify that, on the 5th day of November 2024, a true and correct copy of the foregoing **NINTH INTERIM REPORT AND PETITION FOR FURTHER INSTRUCTIONS OF RECEIVER GEOFF WINKLER** was filed electronically via the Court's CM/ECF system. Notice of filing will be served on all parties by operation of the Court's CM/ECF system, and parties may access this filing through the Court's CM/ECF system.

/s/

An employee of GREENBERG TRAURIG, LLP