

COURT ENTERS ORDER ON DISTRIBUTION

On December 14, 2005 Judge John Dietz conducted a hearing to determine the basis on which a distribution of the assets of the One West receivership would occur. Judge Dietz has supervised this receivership since its inception and is very familiar with the facts of this case.

At the conclusion of the hearing, Judge Dietz entered an order. [Click here to view a copy of the order](#). The key findings in Judge Dietz's order are:

- ◆ Prior to the spring of 2001, Lanny Lown operated an investment program in California. When he realized that the program was close to collapsing because it could not bring in enough money to sustain itself, Lown opened a bank account in Texas on or about May 19, 2001 and began operating the One West investment program from Texas. When Lown opened the bank account in Texas on or about May 19, 2001, there was virtually no money left from the California program because Lown had already spent all the money.
- ◆ Although they may have had similar names, Lown's California investment program and Lown's Texas investment program were distinct and separate illegal operations.
- ◆ When operating its Texas-based scheme, One West deposited all investors' funds into bank accounts held in One West's name. One West maintained no segregated accounts for individual investors, and all funds derived from investors were hopelessly commingled in One West's bank account.
- ◆ Because all funds the Receiver seized were derived solely from One West's Texas-based investment program, restitution to investors from those funds will be made solely to investors who filed claims on time and whose money was received at One West on or after May 19, 2001. Claims based on funds received prior to May 19, 2001 are denied.
- ◆ Some investors received money back from One West prior to the receivership. Many of these individuals were friends or family members of Lanny Lown. Other investors received nothing back from One West. The fairest and most equitable method of distributing money to investors is to insure that all investors' total returns from One West taking into account any returns they received prior to the receivership and funds received through the distribution process is the same pro-rata portion of each investor's Covered Claim. **A Covered Claim is defined as an investment made with One West on or after May 19, 2001. A Covered Claim includes only the money actually deposited with One West and does not include interest or any other amount.**
- ◆ There are sufficient funds available to permit a 30% distribution to investors with Covered Claims. Investors with Covered Claims who received nothing back

from One West prior to the receivership will receive 30% of their Covered Claim. Investors who received an amount less than 30% of their Covered Claim from One West prior to the receivership will receive a distribution that brings their total return, pre-receivership and post-receivership, to 30%. Investors who received more than 30% of their Covered Claim will receive no distribution from the receivership and the Receiver may determine, in her sole discretion, whether to sue those individuals for a return of the excess funds they received.

- ◆ Some investors gave their money to an intermediary to invest, but the intermediary failed to turn over \$43,000 of those funds to One West. Investors with Covered Claims who gave their money to the intermediary will share in the distribution on the same basis as other investors. The Receiver is directed to file a complaint with the Harris County District Attorney's Office concerning the intermediary's failure to turn over the \$43,000 and is authorized to take whatever action against the intermediary that she deems appropriate.

On December 19, 2005, the Receiver mailed checks to all claimants entitled to receive a distribution under the Court's order. Claimants with Covered Claims who had received no money back from One West when the receivership began received a check for 30% of their Covered Claim. Claimants who had received some money back from One West prior to the receivership, but less than 30% of their Covered Claim, received a check that brought their total distribution, pre-receivership and post-receivership, to 30% of their Covered Claim. Claims based on funds deposited before May 19, 2001 were not Covered Claims according to the Court's order, and those claimants received nothing. Claimants who had already received an amount equal to or greater than 30% of their Covered Claim from One West prior to the receivership also received nothing.

The receivership will remain open to permit the Receiver to continue to pursue two litigation matters she filed to attempt to recover additional assets for investors. One matter is a lawsuit the Receiver filed against one of Lown's former criminal attorneys concerning payments he received for Lown's criminal defense prior to the receivership. Those payments were solely derived from One West investors' funds, and the Receiver has asked the Court to require the attorney to return the funds to the Receiver. The second matter involves the return of \$90,000 that was used for Lown's initial bail bond. The trial court judge in Lown's criminal trial directed the bail bond firm to turn over the money to the Receiver. Lown's attorney appealed, claiming that Lown had assigned the money to him as part of his attorney's fees. The Court of Criminal Appeals recently denied the attorney's petition for review but has not yet ruled on the Receiver's motion to require the bail bond firm to comply with the order requiring it to turn over the funds.

The receivership will also remain open to permit the Receiver to consider litigation against the individual who acted as an intermediary for certain One West investors and against the investors who received more than 30% back from One

West prior to the receivership. **Even if all of these lawsuits and potential lawsuits are successful, it is likely that they would result in an additional distribution to investors of approximately 1% of each Covered Claim.** At this time, the Receiver does not know whether any defendant or potential defendant has money with which to pay a judgment if the Receiver is successful pursuing any of these matters. Texas court rules do not permit the Receiver to conduct discovery concerning a defendant's assets until the Receiver obtains a judgment.

The Receiver and her staff are unable to answer individual inquiries concerning progress of the litigation or requests for updates on the receivership. Litigation proceeds very slowly, and there may be no significant developments for months or even years. If any newsworthy events occur, we will post information on the receivership's web site. If considerable time elapses between postings, it is because there is no news to report.