

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, ) No. 06 CR 964  
 )  
 v. ) Judge Ronald Guzman  
 )  
MICHAEL E. KELLY )

**REDACTED THIRD STATUS REPORT OF THE SPECIAL MASTER**

Douglas A. Doetsch, the court-appointed special master (the "Special Master") in the case of *United States of America v. Michael E. Kelly*, hereby submits this Third Status Report of the Special Master pursuant to this Court's Order Appointing Douglas A. Doetsch As Special Master dated February 10, 2009 (the "Order"), to update the Court and interested parties on the status of the Special Master's progress since March 31, 2009 through April 30, 2009 (the "Reporting Period") with respect to the goals of his appointment: namely, preserving and repatriating Assets as defined in the Order potentially subject to forfeiture, administering their liquidation, and distributing restitution to the victims of the Defendant.

**I. SUMMARY UPDATE OF THE NINETY DAY PLAN OF ACTION**

During the Reporting Period, the Special Master has continued efforts, as further described in this Report, to determine the optimal legal structure for taking title to, and possession of, the assets identified in Exhibit A of the Order (the "Assets"), through which the Assets are to be held for the benefit of the victims (the "Legal Structure"), and to gain such understanding of the legal and financial attributes of the Assets and the victims' claims as is necessary to accomplish the Court's objectives. Under the terms of the Order, the Special Master is to present a plan of action within ninety (90) days of the Order date to (i) advise the court of the Special Master's appraisal and valuation of the Assets in the Restitution Fund; (ii) determine whether additional funds will be necessary to make full restitution to the victims and pay the fees and expenses of the Special Master and his retained professionals; (iii) if necessary, advise the court as to additional steps that need to be taken to investigate, evaluate, obtain and liquidate such assets; and (iv) recommend a methodology, timetable and approximate cost to take control and possession of the Assets, liquidate the Assets and make restitution to the victims (the "Plan of Action").

**II. THE RESTITUTION TRUST**

During the Reporting Period, the Special Master, with the assistance of Jauregui, Navarrete y Nader S.C. ("JNN"), Mexican counsel to the Special Master, and Arias, Fabrega & Fabrega ("ARIFA"), Panamanian counsel to the Special Master, has continued to evaluate the optimal legal structure to permit the Special Master to obtain control over the Assets and the companies owning and operating the Assets, taking into account the possible legal and tax implications inherent in the transfer of such control, and ultimately the Assets, into the restitution

fund ( the “Restitution Fund”). The Special Master expects to complete the formation of a trust in Mexico to hold the Assets (the “Restitution Trust”) during the next sixty (60) days. A trust agreement has been drafted and is currently being reviewed by JNN, Mayer Brown LLP (“Mayer Brown”), counsel to the Special Master, and Bank of New York, the selected trustee.

### III. THE ASSETS

#### A. Cash

The Special Master has received a total of US \$6,400,000 in cash from Grupo Kelly, which has been deposited in an account maintained by Mayer Brown (the “Special Master’s Trust Account”). Taking into account interest accruals, the balance of cash in the Special Master’s Trust Account is US \$ 6,408,286.38.<sup>1</sup>

Given the current economic climate in the United States, the Special Master believes that it may be wise to transfer the funds in the Special Master’s Trust Account from the current interest-bearing account to a more secure mix of bank CDs and U.S. Treasury securities. The Special Master has selected a proposal put forth by UBS Financial Services, Inc. to accomplish this funds transfer. The Special Master has put forth a motion to approve this transfer and a hearing on the motion is scheduled for March 12, 2009, at 9:30 a.m.

#### B. The Assets

##### 1. Due Diligence Trip to Panama

On April 24, 2009, the Special Master, a MB attorney and representatives of FTI Consulting (“FTI”) went to Panama to conduct an inspection of [REDACTED]. They also held a preliminary discussion of the financial condition of the hotel.

##### 2. Meetings with Mexican Officials

On April 13, 2009, representatives from the United States Attorney’s Office and the Special Master met with the *Procuraduria General de la Republica* (“PGR,” the Mexican Attorney General). The purpose of the meeting with PGR was to introduce the Special Master to PGR and to harmonize the efforts to be undertaken by the Special Master on behalf of the victims with the interests of the Mexican government and its citizens.

##### 3. Asset Review

During the week of April 20, 2009, the Special Master and representatives from Mayer Brown and FTI met with Grupo Kelly to discuss Grupo Kelly’s revised business plan and budget for [REDACTED]. In addition, during such week, the Special Master and a representative of Mayer Brown conducted an inspection of the Cancun-area hotels owned by Grupo Kelly.

Mayer Brown attorneys have now completed their preliminary due diligence on the Assets.

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<sup>1</sup> As of May 6, 2009.

At the beginning of March, an offer was made on [REDACTED] for \$200,000. FTI and Mayer Brown evaluated the offer and the Asset and determined that the offer was fair. The purchaser is awaiting financing to complete the sale, but a closing date will be set once the financing materializes. The proceeds will be transferred directly to the Restitution Fund or the Special Master's Trust Account.

#### **IV. THE VICTIMS**

##### **A. The Universal Lease Files**

The Special Master originally contemplated scanning the Universal Lease files into a database similar to the one created for the Asset-related files to permit efficient review by the Special Master and his professionals during the Claims Process. The feasibility of this process was assessed in Cancun during the week of March 2, 2009 with the cooperation of Kurtzman Carson Consultants LLC and lawyers from Mayer Brown. After this assessment, it appeared that the most cost effective solution is to obtain the original files, which is being pursued with the assistance of the United States Attorney's Office ("USAO").

##### **C. Investor Communication**

Very few victims have contacted the Special Master at this point and the Special Master has not had cause to contact victims himself. Any victim who has contacted the Special Master directly was referred to the resources provided by the USAO, which include:

- 1) A phone line established by the USAO dedicated to addressing victims' questions. That number is (866) 364-2621;
- 2) An email address established by the USAO dedicated to addressing victims' questions. That address is [USAILN-Victim.MK@usa.doj.gov](mailto:USAILN-Victim.MK@usa.doj.gov);
- 3) For victims who have already been identified, the USAO has created a password protected website, [www.notify.usdoj.gov](http://www.notify.usdoj.gov), which victims can access with a Victim Identification Number ("VIN") and Personal Identification Number ("PIN") provided to them by the USAO. Victims should call (866) 625-1631 if they have any problems accessing the website;
- 4) For victims who have already been identified and do not have access to the internet, the USAO has also established a call center, (866) DOJ-4YOU (1-866-365-4968), which victims can access with the same Victim Identification Number and Personal Identification Number provided to them by the USAO.

#### **V. CONTINUING STRATEGY**

As stated above, the Order provided that the Special Master is to present a Plan of Action within ninety (90) days of the date of the Order. In crafting the Plan of Action, however, the Special Master has encountered a variety of unanticipated delays including, but not limited to:

the unexpected complexity of the proposed trust agreement; the various compliance and “know your customer” requirements of the Bank of New York as the proposed trustee for the Restitution Trust; the continuing corporate reorganization of the Assets’ holding companies the shares of which will be deposited into the Restitution Trust; and delays obtaining necessary information from Grupo Kelly due to peak “spring break” and holiday times impacting work schedules. The Special Master has put forth a motion to extend the initial ninety (90) day period an additional sixty (60) days. A hearing on the motion is scheduled for March 12, 2009, at 9:30 a.m.

Going forward, the Special Master will continue to focus his efforts on the assessment and verification of the information provided by Grupo Kelly relating to victims’ claims, establishing the Restitution Trust and transferring control of the Assets, analyzing the value and sale prospects of the Assets, consolidating records obtained from Grupo Kelly to facilitate the transfer of Assets to the Restitution Trust and developing the Plan of Action to deliver to the Court for its approval.

### CONCLUSION

The Special Master shall continue to perform his responsibilities and duties consistent with the Order and all other directives of this Court.

RESPECTFULLY SUBMITTED this **11th day of May, 2009**.

/s/ Douglas A. Doetsch

Douglas A. Doetsch, Special Master

**Exhibit A**

# STANDARDIZED FUND ACCOUNTING REPORT

CRIMINAL – RESTITUTION FUND

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United States of America vs. Michael E. Kelly

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CRIMINAL COURT CASE NO.  
06 CR 964

REPORTING PERIOD 04/01/2009 – 05/06/2009

Exhibit A

**STANDARDIZED FUND ACCOUNTING REPORT for Michael Kelly Restitution Fund - Cash Basis**

Criminal Court Case No. 06 CR 964

Reporting Period 04/01/2009 to 05/06/2009

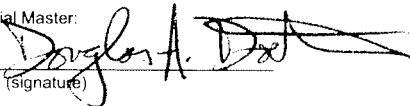
FUND ACCOUNTING (See Instructions):				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 04/01/2009):	\$6,404,600.52	\$6,404,600.52	\$6,404,600.52
	<b>Increases in Fund Balance:</b>			
Line 2	Business Income	-	-	-
Line 3	Cash and Securities	-	-	-
Line 4	Interest/Dividend Income	3,685.86	3,685.86	3,685.86
Line 5	Business Asset Liquidation	-	-	-
Line 6	Personal Asset Liquidation	-	-	-
Line 7	Third-Party Litigation Income	-	-	-
Line 8	Miscellaneous - Other (transferred by the defendant)	-	-	-
	<b>Total Funds Available (Lines 1 – 8):</b>	<b>\$6,408,286.38</b>	<b>\$6,408,286.38</b>	<b>\$6,408,286.38</b>
	<b>Decreases in Fund Balance:</b>			
Line 9	Disbursements to Investors	-	-	-
Line 10	Disbursements for Special Master's Operations	-	-	-
Line 10a	Disbursements to Special Master or Other Professionals	-	-	-
Line 10b	Business Asset Expenses	-	-	-
Line 10c	Personal Asset Expenses	-	-	-
Line 10d	Investment Expenses	-	-	-
Line 10e	Third-Party Litigation Expenses	-	-	-
	1. Attorney Fees	-	-	-
	2. Litigation Expenses	-	-	-
	<b>Total Third-Party Litigation Expenses</b>	-	-	-
Line 10f	Tax Administrator Fees and Bonds	-	-	-
Line 10g	Federal and State Tax Payments	-	-	-
	<b>Total Disbursements for Receivership Operations</b>	-	-	-
Line 11	Disbursements for Distribution Expenses Paid by the Fund:	-	-	-
Line 11a	Distribution Plan Development Expenses	-	-	-
	1. Fees:	-	-	-
	Special Master (including related U.S. legal fees and expenses)	-	-	-
	Independent Distribution Consultant (IDC)	-	-	-
	Distribution Agent	-	-	-
	Consultants	-	-	-
	Other Legal Advisors	-	-	-
	Tax Advisors	-	-	-
	2. Administrative Expenses	-	-	-
	3. Miscellaneous	-	-	-
	<b>Total Plan Development Expenses</b>	-	-	-
Line 11b	Distribution Plan Implementation Expenses:	-	-	-
	1. Fees:	-	-	-
	Special Master (including related U.S. legal fees and expenses)	-	-	-
	IDC	-	-	-
	Distribution Agent	-	-	-
	Consultants	-	-	-
	Other Legal Advisors	-	-	-
	Tax Advisors	-	-	-
	2. Administrative Expenses	-	-	-
	3. Investor Identification:	-	-	-
	Notice/Publishing Approved Plan	-	-	-
	Claimant Identification	-	-	-
	Claims Processing	-	-	-
	Web Site Maintenance/Call Center	-	-	-
	4. Special Master (including related U.S. legal fees and expenses) Bond	-	-	-
	5. Miscellaneous	-	-	-
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses	-	-	-
	<b>Total Plan Implementation Expenses</b>	-	-	-
	<b>Total Disbursements for Distribution Expenses Paid by the Fund</b>	-	-	-
Line 12	Disbursements to Court/Other:	-	-	-
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees	-	-	-
Line 12b	Federal Tax Payments	-	-	-
	<b>Total Disbursements to Court/Other:</b>	-	-	-
	<b>Total Funds Disbursed (Lines 9 – 11):</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Line 13	Ending Balance (As of 05/06/2009):			<b>\$6,408,286.38</b>
Line 14	Ending Balance of Fund – Net Assets:			
Line 14a	Cash & Cash Equivalents	-	-	\$6,408,286.38
Line 14b	Investments	-	-	-
Line 14c	Other Assets or Uncleared Funds	-	-	-
	<b>Total Ending Balance of Fund – Net Assets</b>			<b>\$6,408,286.38</b>

**STANDARDIZED FUND ACCOUNTING REPORT for Michael Kelly Restitution Fund - Cash Basis**

Criminal Court Case No. 06 CR 964

Reporting Period 04/01/2009 to 05/06/2009

OTHER SUPPLEMENTAL INFORMATION:		Detail	Subtotal	Grand Total
<b>Line 15</b>	<b>Report of Items NOT To Be Paid by the Fund:</b>			
	<b>Disbursements for Plan Administration Expenses Not Paid by the Fund:</b>			
<i>Line 15a</i>	<i>Plan Development Expenses Not Paid by the Fund</i>			
	1. Fees:			
	Special Master (including related U.S. legal fees and expenses)			
	IDC			
	Distribution Agent			
	Consultants			
	Other Legal Advisers			
	Tax Advisers			
	2. Administrative Expenses			
	3. Miscellaneous			
	<i>Total Plan Development Expenses Not Paid by the Fund</i>			
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Special Master (including related U.S. legal fees and expenses)			
	IDC			
	Distribution Agent			
	Consultants			
	Other Legal Advisers			
	Tax Advisers			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Special Master (including related U.S. legal fees and expenses) Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	<i>Total Plan Implementation Expenses Not Paid by the Fund</i>			
<i>Line 15c</i>	<i>Tax Administrator Fees &amp; Bonds Not Paid by the Fund</i>			
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			
<i>Line 16a</i>	<i>Investment Expenses/CRIS Fees</i>			
<i>Line 16b</i>	<i>Federal Tax Payments</i>			
	<b>Total Disbursements to Court/Other Not Paid by the Fund:</b>			
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>			
<b>Line 18</b>	<b>No. of Claims:</b>			
<i>Line 18a</i>	<i># of Claims Received This Reporting Period</i>	0	0	0
<i>Line 18b</i>	<i># of Claims Received Since Inception of Fund</i>	0	0	0
<b>Line 19</b>	<b>No. of Claimants/Investors:</b>			
<i>Line 19a</i>	<i># of Claimants/Investors Paid This Reporting Period</i>	0	0	0
<i>Line 19b</i>	<i># of Claimants/Investors Paid Since Inception of Fund</i>	0	0	0

Special Master:  
 By:   
 (signature)  
 \_\_\_\_\_  
 Douglas A. Doetsch  
 (print)  
 \_\_\_\_\_  
 Special Master  
 (title)  
 Date: May 11, 2009



**From:** Hochstetler, Katrina [mailto:KHochstetler@mayerbrown.com]  
**Sent:** Wednesday, May 06, 2009 2:39 PM  
**To:** Moore, Teresa  
**Subject:** FW: Balance of Account - Doetsch/Kelly

Hi Terry,

Here's the email from the Banker with the balance.

Thanks!

Katie

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**From:** Listermann, Nicholas C.  
**Sent:** Wednesday, May 06, 2009 2:38 PM  
**To:** Hochstetler, Katrina  
**Subject:** FW: Balance of Account - Doetsch/Kelly

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**From:** Shamsuddin, Jalilah [mailto:jalilah.shamsuddin@citi.com]  
**Sent:** Wednesday, May 06, 2009 11:48 AM  
**To:** Listermann, Nicholas C.  
**Subject:** RE: Balance of Account - Doetsch/Kelly

Nick,

The balance for Doetsch is \$6,408,286.38.

Regards,

Jalilah

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