

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

| | | |
|-----------------------------|---|---------------------------|
| In re: | : | Chapter 11 |
| | : | |
| EASTERN LIVESTOCK CO., LLC, | : | Case No.: 10-93904-BHL-11 |
| | : | |
| Debtor. | : | |

**STATUS REPORT OF SPECIAL COUNSEL FOR THE TRUSTEE,
JAMES A. KNAUER REGARDING INVESTIGATION OF FIFTH THIRD BANK'S
PROOF OF CLAIM AND POTENTIAL CLAIMS AGAINST FIFTH THIRD BANK**

Hoover Hull LLP ("Hoover Hull" or "Special Counsel"), Special Counsel for the Trustee James A. Knauer respectfully submits this Status Report of Special Counsel for the Trustee, James A. Knauer Regarding Investigation of Potential Claims Against Fifth Third Bank (the "Status Report") and in support thereof states as follows:

1. On March 16, 2012, Special Counsel submitted its Preliminary Report to the Court wherein it indicated that it needed to complete certain 2004 examinations of Fifth Third Bank ("Fifth Third") employees: (1) Anne Kelly, Fifth Third's relationship manager for Eastern Livestock LLC ("ELC"); (2) Patty Voss, Fifth Third's field exam manager for ELC; and (3) Tim Spurlock, Fifth Third fraud investigator and to schedule the 2004 examinations of (4) Krista Rackley; (5) Michael Herr; (6) Doug Hoffner; (7) Bill Hummel; and (8) a representative of Fifth Third's IT department familiar with its proprietary "Focus" system and its ability to save reports.

2. On March 26, 2012, Special Counsel filed a Motion for Expedited Telephone Conference to Discuss Completion of Rule 2004 Examinations stating that Special Counsel and counsel for Fifth Third were at an impasse as to the additional discovery.

3. On March 27, 2012, Fifth Third filed its Response to Trustee's Motion for Expedited Telephone Conference to Discuss Completion of Rule 2004 Examinations.

4. On March 28, 2012, this Court held a telephone conference with counsel to discuss the completion of Rule 2004 examinations of certain former and current employees of Fifth Third.

5. On March April 2, 2012, the Court issued its Order Regarding Completion of Rule 2004 Examinations of Fifth Third ordering the following:

- a. The Trustee shall be permitted to take Rule 2004 examinations of up to three hours for each of the following Fifth Third employees: Timothy Spurlock, Anne Kelly and Patty Voss;
- b. The Trustee shall be permitted to conduct additional 2004 examinations of two of the following current or former Fifth Third employees: i) Krista Rackley; ii) Michael Herr; iii) Doug Hoffner; iv) Bill Hummel; and v) a representative of Fifth Third's IT Department familiar with Fifth Third's "Focus" system and its ability to save reports. The Trustee shall identify which two of the foregoing witnesses it wishes to examine. The Trustee is permitted up to seven hours for each of these two Rule 2004 examinations, though the Trustee shall endeavor to complete the examinations as efficiently as possible; and
- c. The Trustee will only be permitted to take additional Rule 2004 examinations of current and former Fifth Third employees if, after reviewing a motion from the Trustee and a response from Fifth Third, and after a hearing on the matter, the Court finds that there has been a showing of good cause.

6. The Trustee identified Doug Hoffner and Michael Herr as its two additional witnesses for Rule 2004 examinations

7. As of the date of this Status Report, the schedule for the completion of the Rule 2004 examinations is as follows:

- a. April 27, 2012, completion of the examinations of Patty Voss and Tim Spurlock;
- b. May 4, 2012, completion of the examination of Anne Kelly; and
- c. May 15, 2012, Rule 2004 examination of Doug Hoffner.

8. As of the date of this Status Report, no date has been provided for the examination of Michael Herr. According to Fifth Third, it has been unable to contact its former employee, Mr. Herr.

9. Special Counsel continues to work with counsel for Fifth Third to complete the outstanding document discovery including (1) whether it has additional e-mails responsive to the Trustee's subpoena; (2) documents requested during 2004 examinations including Focus Reports pre-dating July 2010; and (3) privilege log issues. If these issues cannot be resolved shortly, Special Counsel will seek the Court's assistance.

10. Special Counsel continues to investigate the claims and other discovery referenced in its Preliminary Report. Assuming Mr. Herr's examination can be completed before May 15, 2012, Special Counsel intends to file its Final Report on or before May 31, 2012.

Respectfully submitted,

/s/ Sean T. White

John David Hoover (#7945-49)

jdhoover@hooverhull.com

Sean T. White (#20428-49)

swhite@hooverhull.com

Hoover Hull LLP

111 Monument Circle, Suite 4400

P.O. Box 44989

Indianapolis, IN 46244-0989

Telephone: (317) 822-4400

Facsimile: (317) 822-0234

Special Counsel for James A. Knauer, Chapter 11
Trustee

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2012, a copy of the foregoing was filed and served electronically through the Court's CM/ECF System.

/s/ Sean T. White

Sean T. White

622759_1.DOCX/8728-1