

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling DIVISION**

In re: COLE, DAVID J.

§ Case No. 14-01120

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Debtor(s)

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**TRUSTEE'S FINAL REPORT (TFR)**

The undersigned trustee hereby makes this Final Report and states as follows:

1. A petition under Chapter 7 of the United States Bankruptcy Code was filed on 10/15/2014. The undersigned trustee was appointed on 10/15/2014.

2. The trustee faithfully and properly fulfilled the duties enumerated in 11 U.S.C. §704.

3. All scheduled and known assets of the estate have been reduced to cash, released to the debtor as exempt property pursuant to 11 U.S.C. § 522, or have been or will be abandoned pursuant to 11 U.S.C. § 554. An individual estate property record and report showing the disposition of all property of the estate is attached as **Exhibit A**.

4. The trustee realized the gross receipts of \$ 120,374.10

Funds were disbursed in the following amounts:

Payments made under an interim distribution	<u>0.00</u>
Administrative expenses	<u>77,143.26</u>
Bank service fees	<u>20.78</u>
Other payments to creditors	<u>0.00</u>
Non-estate funds paid to 3rd Parties	<u>0.00</u>
Exemptions paid to the debtor	<u>0.00</u>
Other payments to the debtor	<u>0.00</u>
Leaving a balance on hand of <sup>1</sup>	\$ <u>43,210.06</u>

The remaining funds are available for distribution.

<sup>1</sup>The balance of funds on hand in the estate may continue to earn interest until disbursed. The interest earned prior to disbursement will be distributed pro rata to creditors within each priority category. The trustee may receive additional compensation not to exceed the maximum compensation set forth under 11 U.S.C. § 326(a) on account of the disbursement of the additional interest.

5. Attached as **Exhibit B** is a cash receipts and disbursements record for each estate bank account.

6. The deadline for filing non-governmental claims in this case was 11/27/2021 and the deadline for filing governmental claims was 11/27/2021. All claims of each class which will receive a distribution have been examined and any objections to the allowance of claims have been resolved. If applicable, a claims analysis, explaining why payment on any claim is not being made, is attached as **Exhibit C**.

7. The Trustee's proposed distribution is attached as **Exhibit D**.

8. Pursuant to 11 U.S.C. § 326(a), the maximum compensation allowable to the trustee is \$7,778.56. To the extent that additional interest is earned before case closing, the maximum compensation may increase.

The trustee has received \$0.00 as interim compensation and now requests the sum of \$7,778.56, for a total compensation of \$7,778.56<sup>2</sup>. In addition, the trustee received reimbursement for reasonable and necessary expenses in the amount of \$0.00 and now requests reimbursement for expenses of \$34.18 for total expenses of \$34.18<sup>2</sup>.

Pursuant to Fed R Bank P 5009, I hereby certify, under penalty of perjury, that the foregoing report is true and correct.

Date: 01/26/2023

By: /s/ Martin P. Sheehan  
Trustee

**STATEMENT:** This Uniform Form is associated with an open bankruptcy case, therefore, Paperwork Reduction Act exemption 5 C.F.R. §1320.4(a)(2) applies.

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<sup>2</sup>If the estate is administratively insolvent, the dollar amounts reflected in this paragraph may be higher than the amounts listed in the Trustee's Proposed Distribution (Exhibit D)

# Form 1

## Individual Estate Property Record and Report

### Asset Cases

Exhibit A

Page: 1

Case No.: 14-01120

Case Name: COLE, DAVID J.

Trustee Name: (680060) Martin P. Sheehan

Date Filed (f) or Converted (c): 10/15/2014 (f)

§ 341(a) Meeting Date: 11/14/2014

For Period Ending: 01/26/2023

Claims Bar Date: 11/27/2021

1	2	3	4	5	6	
Ref. #	Asset Description (Scheduled And Unscheduled (u) Property)	Petition/ Unscheduled Values	Estimated Net Value (Value Determined By Trustee, Less Liens, Exemptions, and Other Costs)	Property Formally Abandoned OA=§554(a) abandon.	Sale/Funds Received by the Estate	Asset Fully Administered (FA)/ Gross Value of Remaining Assets
1	Residence Located at 190 17th Street, Wheeling 2 <small>Imported from original petition Doc# 1</small>	20,250.00	0.00	OA	0.00	FA
2	Cash on Hand <small>Imported from original petition Doc# 1</small>	50.00	0.00	OA	0.00	FA
3	United Bank Checking Acct. #XXXX9707 <small>Imported from original petition Doc# 1</small>	50.00	0.00	OA	0.00	FA
4	Household Goods and Furnishings <small>Imported from original petition Doc# 1</small>	1,050.00	0.00	OA	0.00	FA
5	Wearing Apparel <small>Imported from original petition Doc# 1</small>	300.00	0.00	OA	0.00	FA
6	Savage Model 111 .270 <small>Imported from original petition Doc# 1</small>	150.00	0.00	OA	0.00	FA
7	Mossburg .12 guage shotgun <small>Imported from original petition Doc# 1</small>	50.00	0.00	OA	0.00	FA
8	2003 Chevy Tracker (281,000 miles) <small>Imported from original petition Doc# 1</small>	3,085.00	0.00	OA	0.00	FA
9	1997 Harley-Davidson Superglide (20,000 miles) <small>Imported from original petition Doc# 1</small>	4,072.00	0.00	OA	0.00	FA
10	Personal Injury Claim re: RoundUp (u)	120,285.00	120,285.00		120,374.10	FA
<b>10</b>	<b>Assets Totals (Excluding unknown values)</b>	<b>\$149,342.00</b>	<b>\$120,285.00</b>		<b>\$120,374.10</b>	<b>\$0.00</b>

**Major Activities Affecting Case Closing:**

12/1/22 -- Sent Order approving settlement to Counsel; waiting for disbursement of settlement proceeds  
 10/30/22 -- Motion to Approve Settlement and Distribute Proceeds filed; Objections due by 11/23/2022  
 10/13/22 -- Requested update re: Draft Motion to Approve Settlement  
 9/25/22 -- Sent draft of Motion to Settle to PI Atty  
 8/16/22 -- Filed Application to Employ Special Counsel. Objections due by 8/30/2022  
 4/6/22 -- Received status update re: settlement amount; sent initial employment letter and documents for execution  
 12/27/21 -- Received response from PI attorney; further discussions are pending  
 10/26/21 -- Sent letter to PI attorney Ochigrossi requesting entire settlement fund amount  
 10/22/21 -- Received letter from PI attorney indicating they do not believe PI settlement is property of the estate  
 8/27/21 -- Sent Affidavit to Atty Walsh  
 8/20/21 -- Reopened to administer PI Case re: RoundUp

Initial Projected Date Of Final Report (TFR): 08/30/2022

Current Projected Date Of Final Report (TFR): 04/21/2023

01/26/2023

Date

/s/Martin P. Sheehan

Martin P. Sheehan

# Form 2

## Cash Receipts And Disbursements Record

Case No.: 14-01120  
 Case Name: COLE, DAVID J.  
 Taxpayer ID #: \*\*\_\*\*\*3791  
 For Period Ending: 01/26/2023

Trustee Name: Martin P. Sheehan (680060)  
 Bank Name: Metropolitan Commercial Bank  
 Account #: \*\*\*\*\*3322 Checking  
 Blanket Bond (per case limit): \$3,000,000.00  
 Separate Bond (if applicable): N/A

1	2	3	4	5	6	7	
Trans. Date	Check or Ref. #	Paid To / Received From	Description of Transaction	Uniform Tran. Code	Deposit \$	Disbursement \$	Account Balance
12/21/22		Weitz & Luxenberg, P.C.	Settlement Proceeds		43,230.84		43,230.84
	{10}	Weitz & Luxenberg, PC	PI Settlement Proceeds \$120,374.10	1242-000			
		Marie Ianniello-Occhigrossi	Attorney Expenses -\$656.33	3110-000			
		Marie Ianniello-Occhigrossi	Attorney Fees -\$40,124.70	3110-000			
		EIF Application Fee	Other Settlement Costs -\$250.00	2990-000			
		MEDICARE	Final Lien Hold-back -\$36,112.23	2990-000			
12/30/22		Metropolitan Commercial Bank	Bank and Technology Services Fees	2600-000		20.78	43,210.06

<b>COLUMN TOTALS</b>	<b>43,230.84</b>	<b>20.78</b>	<b>\$43,210.06</b>
Less: Bank Transfers/CDs	0.00	0.00	
<b>Subtotal</b>	<b>43,230.84</b>	<b>20.78</b>	
Less: Payments to Debtors		0.00	
<b>NET Receipts / Disbursements</b>	<b>\$43,230.84</b>	<b>\$20.78</b>	

# Form 2

## Cash Receipts And Disbursements Record

**Case No.:** 14-01120  
**Case Name:** COLE, DAVID J.  
**Taxpayer ID #:** \*\*\_\*\*\*3791  
**For Period Ending:** 01/26/2023

**Trustee Name:** Martin P. Sheehan (680060)  
**Bank Name:** Metropolitan Commercial Bank  
**Account #:** \*\*\*\*\*3322 Checking  
**Blanket Bond (per case limit):** \$3,000,000.00  
**Separate Bond (if applicable):** N/A

Net Receipts:	\$43,230.84
Plus Gross Adjustments:	\$77,143.26
Less Payments to Debtor:	\$0.00
Less Other Noncompensable Items:	\$0.00
Net Estate:	\$120,374.10

TOTAL - ALL ACCOUNTS	NET DEPOSITS	NET DISBURSEMENTS	ACCOUNT BALANCES
*****3322 Checking	\$43,230.84	\$20.78	\$43,210.06
	<b>\$43,230.84</b>	<b>\$20.78</b>	<b>\$43,210.06</b>

01/26/2023  
Date

/s/Martin P. Sheehan  
Martin P. Sheehan

**Exhibit C**  
**Claims Register**

**Case: 14-01120 DAVID J. COLE**

**Claims Bar Date: 11/27/21 12:00**

Claim #	Claimant Name	Claim Type/ Date Filed	Acct#/ Memo/Journal	Amount Filed/ Allowed	Paid to Date	Claim Balance
ATTYEXP	Marie Ianniello-Occhigrossi Weitz & Luxenberg, PC 700 Broadway New York, NY 10003	Admin Ch. 7 09/25/22	40% of Gross Settlement	\$ 0.00 \$ 656.33	\$656.33	\$0.00
ATTYFEE	Marie Ianniello-Occhigrossi Weitz & Luxenberg, PC 700 Broadway New York, NY 10003	Admin Ch. 7 09/25/22	40% of Gross Settlement	\$ 0.00 \$ 40,124.70	\$40,124.70	\$0.00
EIF	EIF Application Fee	Admin Ch. 7 12/21/22		\$ 250.00 \$ 250.00	\$250.00	\$0.00
FEE	Martin P. Sheehan 1 Community St, Ste. 200 Wheeling, WV 26003	Admin Ch. 7 01/26/23		\$ 7,778.56 \$ 7,778.56	\$0.00	\$7,778.56
MEDLIEN	MEDICARE	Admin Ch. 7 09/25/22	Final Lien Hold-back	\$ 0.00 \$ 36,112.23	\$36,112.23	\$0.00

**Exhibit C**  
**Claims Register**

**Case: 14-01120 DAVID J. COLE**

**Claims Bar Date: 11/27/21 12:00**

Claim #	Claimant Name	Claim Type/ Date Filed	Acct#/ Memo/Journal	Amount Filed/ Allowed	Paid to Date	Claim Balance
SURPLUS	COLE, DAVID J. 190 17TH STREET WHEELING, WV 26003-3662	Unsecured 01/26/23		\$ 0.00 \$ 29,802.85	\$0.00	\$29,802.85
TE	Martin P. Sheehan 1 Community St, Ste. 200 Wheeling, WV 26003	Admin Ch. 7 12/21/22		\$ 34.18 \$ 34.18	\$0.00	\$34.18
1	CAVALRY SPV I, LLC 500 SUMMIT LAKE DRIVE, STE 400 VALHALLA, NY 10595	Unsecured 08/30/21	5088 Capital One, N.A. Credit Card; Last Transaction Date - 8/13/2014	\$ 342.58 \$ 342.58	\$0.00	\$342.58
11	CAVALRY SPV I, LLC 500 SUMMIT LAKE DRIVE, STE 400 VALHALLA, NY 10595	Unsecured 01/26/23	5088	\$ 2.93 \$ 2.93	\$0.00	\$2.93
2	DISCOVER BANK DISCOVER PRODUCTS INC PO BOX 3025 NEW ALBANY, OH 43054-3025	Unsecured 09/02/21	1792 Discover Credit Card; Last Transaction Date 7/18/14; Charged off 12/31/14	\$ 3,350.52 \$ 3,350.52	\$0.00	\$3,350.52

## Exhibit C Claims Register

Case: 14-01120 DAVID J. COLE

Claims Bar Date: 11/27/21 12:00

Claim #	Claimant Name	Claim Type/ Date Filed	Acct#/ Memo/Journal	Amount Filed/ Allowed	Paid to Date	Claim Balance
2I	DISCOVER BANK DISCOVER PRODUCTS INC PO BOX 3025 NEW ALBANY, OH 43054-3025	Unsecured 01/26/23	1792	\$ 28.61 \$ 28.61	\$0.00	\$28.61
3	ASHLEY FUNDING SERVICES, LLC RESURGENT CAPITAL SERVICES PO BOX 10587 GREENVILLE, SC 29603-0587	Unsecured 09/15/21	1751 First Capital Emerg Physicians; Charged off 10/28/12	\$ 745.00 \$ 745.00	\$0.00	\$ 745.00
3I	ASHLEY FUNDING SERVICES, LLC RESURGENT CAPITAL SERVICES PO BOX 10587 GREENVILLE, SC 29603-0587	Unsecured 01/26/23	1751	\$ 6.36 \$ 6.36	\$0.00	\$ 6.36
4	ASHLEY FUNDING SERVICES, LLC RESURGENT CAPITAL SERVICES PO BOX 10587 GREENVILLE, SC 29603-0587	Unsecured 09/15/21	3670 Medical Expenses; Charged off 8/5/12	\$ 1,109.00 \$ 1,109.00	\$0.00	\$ 1,109.00
4I	ASHLEY FUNDING SERVICES, LLC RESURGENT CAPITAL SERVICES PO BOX 10587 GREENVILLE, SC 29603-0587	Unsecured 01/26/23	3670	\$ 9.47 \$ 9.47	\$0.00	\$9.47



**Exhibit C**  
**Claims Register**

Case: 14-01120 DAVID J. COLE

Claims Bar Date: 11/27/21 12:00

Claim #	Claimant Name	Claim Type/ Date Filed	Acct#/ Memo/Journal	Amount Filed/ Allowed	Paid to Date	Claim Balance
<b>Case Total:</b>						
					\$77,143.26	\$43,210.06



In addition to the expenses of administration listed above as may be allowed by the Court, priority claims totaling \$0.00 must be paid in advance of any dividend to general (unsecured) creditors.

Allowed priority claims are:

Claim No.	Claimant	Allowed Amount of Claim	Interim Payments to Date	Proposed Payment
None				

Total to be paid for priority claims:       \$                   0.00  
 Remaining balance:                               \$                   35,397.32

The actual distribution to wage claimants included above, if any, will be the proposed payment less applicable withholding taxes (which will be remitted to the appropriate taxing authorities).

Timely claims of general (unsecured) creditors totaling \$5,547.10 have been allowed and will be paid *pro rata* only after all allowed administrative and priority claims have been paid in full. The timely allowed general (unsecured) dividend is anticipated to be 100.0 percent, plus interest (if applicable).

Timely allowed general (unsecured) claims are as follows:

Claim No.	Claimant	Allowed Amount of Claim	Interim Payments to Date	Proposed Payment
1	CAVALRY SPV I, LLC	342.58	0.00	342.58
2	DISCOVER BANK	3,350.52	0.00	3,350.52
3	ASHLEY FUNDING SERVICES, LLC	745.00	0.00	745.00
4	ASHLEY FUNDING SERVICES, LLC	1,109.00	0.00	1,109.00

Total to be paid for timely general unsecured claims:       \$                   5,547.10  
 Remaining balance:                               \$                   29,850.22

Tardily filed claims of general (unsecured) creditors totaling \$0.00 have been allowed and will be paid *pro rata* only after all allowed administrative, priority and timely filed general (unsecured) claims have been paid in full. The tardily filed claim dividend is anticipated to be 0.0 percent, plus interest (if applicable).

Tardily filed general (unsecured) claims are as follows:

Claim No.	Claimant	Allowed Amount of Claim	Interim Payments to Date	Proposed Payment
None				

Total to be paid for tardily filed general unsecured claims:       \$                   0.00  
 Remaining balance:                               \$                   29,850.22

Subordinated unsecured claims for fines, penalties, forfeitures, or damages and claims ordered subordinated by the Court totaling \$0.00 have been allowed and will be paid *pro rata* only after all allowed administrative, priority and general (unsecured) claims have been paid in full. The dividend for subordinated unsecured claims is anticipated to be 0.0 percent, plus interest (if applicable).

Subordinated unsecured claims for fines, penalties, forfeitures or damages and claims ordered subordinated by the Court are as follows:

Claim No.	Claimant	Allowed Amount of Claim	Interim Payments to Date	Proposed Payment
None				

Total to be paid for subordinated claims: \$ 0.00

Remaining balance: \$ 29,850.22

To the extent funds remain after payment in full of all allowed claims, interest will be paid at the legal rate of 0.10% pursuant to 11 U.S.C. § 726(a)(5). Funds available for interest are \$47.37. The amounts proposed for payment to each claimant, listed above, shall be increased to include the applicable interest.

The amount of surplus returned to the debtor after payment of all claims and interest is \$29,802.85.

## Trustee's Compensation

**Debtor:** COLE, DAVID J.

**Case:** 14-01120

<b><u>Computation of Compensation</u></b>			
Total disbursements to other than the debtor are:			90,571.25
Pursuant to 11 U.S.C. 326, compensation is computed as follows:			
25% of First \$5,000	5,000.00	=	1,250.00
10% of Next \$45,000	45,000.00	=	4,500.00
5% of Next \$950,000	40,571.25	=	2,028.56
3% of Balance	0.00	=	0.00
<b>Calculated Total Compensation:</b>			<b>\$7,778.56</b>
Plus Adjustment:			0.00
<b>Total Compensation:</b>			<b>\$7,778.56</b>
Less Previously Paid:			0.00
<b>Total Compensation Requested:</b>			<b>\$7,778.56</b>
<b><u>Trustee Expenses</u></b>			
COPIES	13.0 COPY at \$0.25		\$3.25
POSTAGE	1.0 POST at \$0.93		\$0.93
SUPPLIES			\$10.00
DISTRIBUTION			\$20.00
<b>Subtotal Expenses:</b>			<b>\$34.18</b>
Plus Adjustment:			0.00
<b>Total Expenses:</b>			<b>\$34.18</b>
Less Previously Paid:			0.00
<b>Total Expenses Requested:</b>			<b>\$34.18</b>

The undersigned Trustee certifies under penalty of perjury that the foregoing is true and correct to the best of his/her knowledge and requests the United States Trustee to approve this report and accounts and requests the Court to provide for notice and opportunity for a hearing under 11 U.S.C. 330(a), 502(b), and 503(b) and to thereafter award final compensation or reimbursement of expenses and to make final allowance for the purposes of distribution to claims, administrative expenses, and other payments stated in this report and account.

WHEREFORE, the Trustee requests that this application be approved by this Court and that the Trustee be granted an allowance of \$7778.56 as compensation and \$34.18 for reimbursement of expenses. The Trustee further states that no payments have been made or promised to him/her for services rendered or to be rendered in any capacity in this case. No agreement or understanding exists between applicant and any other person for sharing compensation received or to be received.

Dated: 01/26/2023

Signed: /s/ Martin P. Sheehan

Martin P. Sheehan, TRUSTEE  
 1 Community St, Ste. 200  
 Wheeling, WV 26003