

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**BRENDA SMITH, BROAD REACH
CAPITAL, LP, BROAD REACH
PARTNERS, LLC, and BRISTOL
ADVISORS, LLC,**

Defendants.

C. A. No. 2:19-cv-17213 (MCA)

**RECEIVER KEVIN DOOLEY KENT'S FOURTEENTH QUARTERLY
STATUS REPORT**

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The Receiver, Kent Dooley Kent, has been appointed by Order of this Court dated June 29, 2020 (“Receivership Order”), to assume control of, marshal, pursue and preserve the Receivership Assets. (ECF No. 22). The Receiver hereby submits this Fourteenth Quarterly Status Report (the “Report”), in accordance with Paragraphs 67 and 68 of the Receivership Order, and reports as follows:

I. INTRODUCTION

This action involves an investment advisory fraud in connection with which Defendants, Brenda A. Smith (“Brenda Smith” or “Smith”), Broad Reach Capital, LP, Broad Reach Partners, LLC and Bristol Advisors, LLC, are alleged to have raised in excess of \$100 million from at least forty (40) investors, based upon false representations regarding trading strategies to be implemented when, in reality, the vast majority of these investments were funneled into unrelated companies, used to pay back other investors, or utilized for personal use. (ECF No. 1). It is estimated that investors are still owed approximately \$60 million in principal. Brenda Smith pled guilty to committing securities fraud in connection with Broad Reach Capital on September 9, 2021, in *USA v. Smith*, No. 2:20-cr-00475-MCA (D.N.J.). Smith was sentenced to 109 months in prison on May 4, 2022.

On June 29, 2020, this Court appointed Mr. Kent as Receiver to assume control of, marshal, pursue and preserve assets of Defendant, Brenda Smith, and Receivership Parties Broad Reach Capital, LP (“Broad Reach Capital”), Broad

Reach Partners, LLC, Bristol Advisors, LLC, BA Smith & Associates LLC, Bristol Advisors LP, CV Brokerage, Inc., Clearview Distribution Services LLC, CV International Investments Limited, CV International Investments PLC, CV Investments LLC (“CV Investments”), CV Lending LLC, CV Minerals LLC, BD of Louisiana, LLC, TA1, LLC (“TA1”), FFCC Ventures LLC, Prico Market LLC, GovAdv Funding LLC, Elm Street Investments, LLC (ECF No. 96), Investment Consulting LLC (“Investment Consulting”), and Tempo Resources LLC (hereinafter “Receivership Assets” or “Receivership Estate”). Receivership Order, Whereas ¶ 3; ¶¶ 1–3, 5 (ECF No. 22).

This status report focuses on developments during the fourteenth quarter of the Receivership. The Receiver incorporates by reference his prior status reports with respect to events that took place in prior quarters. This Report provides a full report and accounting of the Receivership Estate for the fourteenth quarter, reflecting the existence, value and location of currently known Receivership Assets, and the extent and nature of known liabilities.

II. SUMMARY OF THE OPERATIONS OF THE RECEIVER

On June 29, 2020, the Receiver was appointed to assume control of, marshal, pursue and preserve Receivership Assets. The total balance in the Receivership Accounts as of the close of the fourteenth quarter was \$8,021,114.37.

The Receiver and his Counsel continue to focus their efforts on preserving, locating and maximizing Receivership Assets, pursuing claims informally and through litigation, and evaluating, negotiating and managing claims asserted against the Receivership Estate. The Receiver's Accountants continue to provide forensic support as needed in connection with the pursuit of affirmative claims, including serving as the Receiver's expert witness when appropriate, assist with quantifying and evaluating claims asserted against the Estate, manage the document repository, perform tax-related services for the Receivership, and support the Receiver in his negotiations with the IRS.

The most time-sensitive issues for resolution in this matter include a decision on the Receiver's First Omnibus Motion for Order Resolving Disputed Non-Investor Claims, originally filed on March 14, 2023 (ECF No. 232), and re-filed on July 13, 2023 (ECF No. 254), and the resolution of a claim asserted by the Internal Revenue Service. With the exception of one deceased claimant whose estate has not responded, and seemingly does not intend to respond, the Motion is fully briefed and ripe for review. And while the IRS has elected not to participate in the claims process, the Receiver and the IRS have been in active negotiations regarding the IRS claim, and the Receiver anticipates submitting a proposed settlement with the IRS for the Court's approval in the near future. Once these issues are resolved, the Receiver can formulate and file a motion for a proposed interim distribution. The

Receiver is eager to begin analyzing a potential distribution process once the pending claims motion is adjudicated.

The operations of the Receiver for the fourteenth quarter are outlined in further detail below.

A. Litigation-Related Activities

The Receiver filed thirteen (13) lawsuits during prior quarters. Four (4) of those lawsuits have been settled and closed:

- ***Kevin D. Kent, in his capacity as Receiver v. Medical Consultants Instructional Training Center, et al., No. 2:21-cv-13104 (D.N.J.):*** This case was closed following the Court's approval of the settlement on August 4, 2022. (ECF No. 28). However, the defendants have not satisfied all of their payment obligations under the Settlement Agreement, and two of the defendants have filed for bankruptcy protection. The Receiver submitted a claim on behalf of the Receivership Estate in the bankruptcy action filed by Medical Construction Industrial Training Center, LLC in the District of New Jersey on June 28, 2023. The Receiver also submitted a claim on behalf of the Receivership Estate in the bankruptcy action filed by Carol Johnston in the District of New Jersey on August 24, 2023. Those bankruptcy proceedings are ongoing.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Larry Hooper, et al., No 2:22-cv-01876 (D.N.J.):*** This case was closed following the Court's approval of the settlement on August 29, 2022. (ECF No. 15).
- ***Kevin Dooley Kent, in his capacity as Receiver v. Jeffrey Bydalek, et al., No 2:22-cv-01811 (D.N.J.):*** This case was dismissed on January 30, 2013 (ECF No. 39), following the Court's approval of the settlement on January 20, 2023. (ECF No. 35).
- ***Kevin Dooley Kent, in his capacity as Receiver v. Richard Shawn Ellis, et al., No. 2:21-cv-20754 (D.N.J.):*** This case was dismissed on

November 14, 2023 (ECF No. 81), following the Court's approval of the settlement on November 2, 2023. (ECF No. 78).¹

Another lawsuit has been closed following the entry of a default judgment:

- ***Kevin Dooley Kent, in his capacity as Receiver v. Edward C. Britton, et al., No. 2:22-cv-02845 (D.N.J.):*** The Receiver obtained a default judgment against the defendants on August 16, 2023. (ECF No. 8). The Receiver filed a request for the award of pre- and post-judgment interest on September 15, 2023. (ECF No. 10). On October 4, 2023, the Court entered an amended default judgment award against the defendants in the amount of \$1,739,863.50, inclusive of the principal sum of \$1,129,845.50, plus pre- and post-judgment interest, and closed the case. (ECF No. 11).

The status of the remaining eight (8) lawsuits is as follows:

- ***Kevin D. Kent, in his capacity as Receiver v. Emperor Global Enterprises LLP, et al., No. 2:21-cv-13099 (D.N.J.):*** The Receiver produced the expert reports of his Accountant and a certified forensic document examiner on December 29, 2023. The parties are proceeding with expert discovery.
- ***Kevin D. Kent, in his capacity as Receiver v. Richard C. Galvin, et al., No. 2:21-cv-13105 (D.N.J.):*** The parties are proceeding with discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada, No. 2:21-cv-18396 (D.N.J.):*** The Receiver's Motion for Summary Judgment (ECF No. 45) remains pending.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Renato Iregui, et al., No. 2:21-cv-20691 (D.N.J.):*** The Receiver produced the expert report of his Accountant on September 22, 2023. A settlement conference took place on January 22, 2024. The Receiver reached a tentative settlement with Kelly Lynn Ulmer at the settlement conference, and is in the process of finalizing the paperwork necessary to formalize the

¹ The Order approving the settlement was signed on October 30, 2023, but docketed on November 2, 2023.

settlement. Meanwhile, the claims against the remaining defendants are proceeding.

- ***Kevin Dooley Kent, in his capacity as Receiver v. Jordan Denise, et al., No. 2:22-cv-00388 (D.N.J.):*** The Receiver filed a Motion for Sanctions against Jordan Denise on December 6, 2023, for her failure to appear for deposition. (ECF No. 64). Ms. Denise filed a Response in Opposition on January 9, 2024. (ECF No. 68). The Receiver filed a Reply Brief on January 16, 2024. (ECF No. 73). A hearing on the Receiver's Motion took place on January 23, 2024. The Court entered an order that same date, providing that Ms. Denise is barred from testifying at trial and submitting a declaration in opposition to the Receiver's anticipated motion for summary judgment. (ECF No. 75). Meanwhile, the parties are now proceeding with expert discovery.
- ***Surefire Dividend Capture, LP and Kevin Dooley Kent, Esq., as Receiver v. The Nottingham Company, et al., No. 19-CV-04088-BMS (E.D. Pa.):*** Fact discovery concluded on November 15, 2023. The Receiver produced the expert report of his Accountant on November 27, 2023. Surefire produced the expert report of a fund administration expert that same day. Nottingham produced a rebuttal fund administration expert report on January 5, 2024. The parties are proceeding with expert discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Ronald Hightower, et al., No. 2:22-cv-01195 (D.N.J.):*** The parties are proceeding with fact discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Hector Valdes, et al., No. 2:23-cv-20475 (D.N.J.):*** The Receiver filed the Complaint on September 19, 2023. (ECF No. 1). Defendants filed an Answer to the Complaint on January 3, 2024. (ECF No. 14). An initial scheduling conference is scheduled for February 23, 2024.

B. Storage & Sale of Belongings and Data

In total, the Receiver has recovered \$14,188.20 in net proceeds from the sale of personal property through eighteen (18) auctions over the course of the Receivership, after payment of commissions and related expenses.² The Receiver does not currently possess any other marketable personal property.

The Receiver continues to hold professional equipment and the original books and records of the Receivership Parties. Brenda Smith arranged for the pick-up of personal, sentimental items without significant resale value on April 6, 2023.

C. Louisiana Property

Despite aggressive marketing efforts and numerous price reductions, including a reduction to \$495,000.00 on August 25, 2022, the Receiver was unable to secure a private buyer for the Louisiana property owned by BD of Louisiana, LLC (“the Property”) at a price which would satisfy the requirements of 28 U.S.C. § 2001(b) and cover the balance of the mortgage held by b1BANK. Accordingly, on June 30, 2023, the Receiver entered into a Creditor Agreement with b1BANK, authorizing it to initiate mortgage foreclosure proceedings against BD of Louisiana, LLC in Louisiana.

The basic terms of the Agreement are as follows:

² Gross sale proceeds to date total \$19,516.50, which are offset by commissions and other related expenses totaling \$5,328.30 to date.

- The Receiver was to file a motion in this action to lift the stay for the limited purpose of allowing b1BANK to proceed with an executory process (e.g., foreclosure) proceeding in Louisiana state court—specifically, the 21st Judicial District Court for the Parish of Tangipahoa.
- Following Louisiana’s requirements for executory process proceedings, b1BANK will remit payment of all fees, deposits, and commissions in connection with the foreclosure proceedings.
- B1BANK will have the discretion to determine whether to pursue a Sheriff’s sale with or without appraisal and will complete all necessary requirements if it decides to pursue an appraisal.
- B1BANK will credit bid up to a maximum bid of \$450,000.00, such that any third party who bids more than \$450,000.00 will be allowed to purchase the Property.
- If no competing bids are received, b1BANK may choose to defer the Sheriff’s sale to a second sale as provided by Louisiana law, provided that the same bidding limitations and requirements will apply.
- If a third party purchases the Property at the Sheriff’s sale for not less than \$450,000.00, the net sale proceeds (after deduction of the Sheriff’s commission, any outstanding property taxes, costs, and superior liens and encumbrances) will be allocated as follows:
 - \$395,000 to b1BANK;
 - Any sums over \$395,000 to the Receiver
- If b1BANK is the successful bidder at the Sheriff’s sale and takes title to the property, it will use its commercially reasonable best efforts to sell the Property on the private market for not less than \$415,000. B1BANK will, at its sole discretion, select and engage a realtor and determine the listing price and terms and conditions of any sale.
- If a private purchase agreement is executed within six (6) months after b1BANK receives title, b1BANK will allocate the net sale proceeds (after reimbursement of the Sheriff’s commission and costs, insurance and property taxes paid in the interim) in the same manner as with a Sheriff’s sale, e.g., \$395,000 to b1BANK and the excess to the Receiver. Further, if

the property is subject to any IRS lien, the six month period referenced herein will not begin until the IRS' right of redemption has expired.

- If, despite its commercially reasonable best efforts, b1BANK is unable to sell the property within 6 months after it receives title, it will no longer be obligated to share net proceeds with the Receiver.
- In no event will b1BANK pursue recovery of any deficiency amount from BD of Louisiana, the Receivership Estate, the Receiver, or Brenda Smith, and b1BANK waives any and all rights to recover from them any remaining balance owed under the Promissory Note after the sale of the Property.

Proceeding in this fashion is in the best interest of the Receivership Estate because (a) the Receiver has already exhausted his efforts to privately sell the Property pursuant to 28 U.S.C. § 2001(b), without success; (b) if the Receiver has to proceed with a public sale pursuant to Section 2001(a), the Receivership Estate will be forced to incur additional upfront costs and run the risk of selling the Property for less than the mortgage balance; (c) the Property holds no beneficial purpose for the Receivership Estate and is only costing the Estate money in the form of administrative costs while interest on the mortgage continues to increase; (d) the proposed sale through the foreclosure process includes the potential that the Receivership Estate will make a recovery from the public sale; and (e) the arrangement will eliminate the risk that the Receivership Estate could owe any deficiency to b1BANK if the Property ultimately sells for less than the mortgage balance.

The Receiver filed a Motion to Permit b1BANK to Initiate Mortgage Foreclosure Proceedings and Proceed with the Public Sale of Real Property Owned by BD of Louisiana, LLC on July 18, 2023 (ECF No. 259). The Motion was granted on July 19, 2023. (ECF No. 260). B1Bank initiated executory proceedings on or about August 11, 2023.

B1 Bank has elected to proceed for a Sheriff's sale without appraisal. A first Sheriff's sale took place on December 6, 2023, but there were no bidders. A second Sheriff's sale is expected to be scheduled for the first quarter of 2024. The starting bid will be the total of the Sheriff's costs, which are likely less than \$10,000.00. B1 Bank will credit bid up to \$450,000.00 at the Second Sheriff's sale, if necessary, pursuant to the Agreement.

Meanwhile, the Receiver paid property taxes for the Property for 2023.

D. Private Investments and Ownership Interests

The Receiver continues to attempt to resolve and/or liquidate Smith's potential interest in a gold mine as a result of payments made to Calais Management Corporation. If this interest cannot be liquidated or bought out to the Receiver's satisfaction, the Receiver may seek to initiate litigation against the entities involved in order to protect the interests of the Receivership Estate.

The Receiver received a \$179.06 distribution from OTAF (Holgate) LLC on October 17, 2023, bringing the total distributions received from Smith's \$100,000.00

investment to \$167,806.58 through the close of the fourteenth quarter. The Holgate Project is in the process of winding down, but it is anticipated that the Receiver may receive two additional distributions over the course of the next year.

E. Investigation of Overseas Bank Accounts

Aside from Cidel Bank & Trust Inc. (“Cidel Bank”), the overseas banks to which the Receiver sent Brenda Smith’s signed consent directive have failed to respond to the Receiver’s communications and document requests. However, Cidel Bank returned the funds held in that overseas account to the Receiver during the thirteenth quarter.

F. Investigation, Development, Pursuit and Settlement of Claims

The Receiver has filed a total of thirteen (13) lawsuits on behalf of the Receivership Estate so far, and has issued demands and/or continues to negotiate with several others. The Receiver anticipates filing additional lawsuits in the near future if those additional claims cannot be resolved.

In total, ten (10) pre-litigation settlements and four (4) litigation settlements have been reached as of December 31, 2023, valued at over \$4.7 million. The Receivership Estate received \$500,000.00 of those settlement funds in December 2023. Based on existing settlements with extended payout schedules, the Receiver

anticipates bringing in an additional \$1,850,000.00 in settlement funds through December 2025.³

G. Financial Account Reconstruction and Accounting Support

The Receiver's Accountants at Alvarez and Marsal continue to support the Receiver's efforts. The Accountants' financial account reconstruction allowed them to make determinations regarding investor capital account activity, and they prepared supporting documentation distributed to investors in connection with the claims process. They remain available to the Receiver to assist with the Receivership claims process.

The Accountants have continued to support the Receivers' demands issued to, and negotiations with, third-party recipients of investor funds, and their work has allowed the Receiver to initiate and pursue litigation against various individuals and entities on behalf of the Receivership Estate. The Accountants are available to the Receiver to provide assistance with specific issues that may arise in connection with certain claims and/or lawsuits the Receiver is pursuing, and to provide necessary litigation and/or expert support. The Accountants have already issued four (4) expert reports in connection with the Receiver's ancillary litigation so far—two of which

³ These amounts are subject to certain prepayment discounts if the funds are delivered earlier than anticipated.

were issued during the fourteenth quarter, and completed a detailed insolvency analysis for certain Receivership Parties in connection therewith.

H. Unclaimed Property

The Receiver submitted claims with the Unclaimed Property Division of the Pennsylvania Treasury Department for CV Brokerage, Inc. and BA Smith & Associates LLC on December 22, 2023, and is awaiting a response. Likewise, the Receiver submitted a claim with the Michigan Department of Treasury for unclaimed property of CV Brokerage, Inc. on December 28, 2023. That claim will take approximately ninety (90) days to review.

I. Receivership Taxes

The Receiver is in the process of negotiating with the Internal Revenue Service regarding the \$1.3 million minimum claim it has asserted against the Receivership Estate. Meanwhile, Alvarez and Marsal continues to provide tax-related services to the Receivership Estate, and prepared and submitted an Income Tax Return (Form 1120-SF) for the Receivership Estate for calendar year 2022 in October 2023. They will also be preparing a plan for the ultimate dissolution of most, if not all, of the Receivership Parties.

III. CASH ON HAND, ADMINISTRATIVE EXPENSES, AND UNENCUMBERED FUNDS

As of December 31, 2023, total cash on hand was \$8,021,114.37. The Receiver brought in \$500,000.00 in settlement proceeds, an additional \$179.06 in distributions from OTAF (Holgate), and \$54,156.27 in interest earnings on the WSFS savings account during the fourteenth quarter.

The Receiver anticipates that his ongoing pursuit of claims and litigation will result in financial benefit for the Receivership Estate through settlements or judgments. Additionally, \$444,213.08 (plus any accrued interest) remains held in two Industrial and Commercial Bank of China Financial Services (“ICBC”) clearing accounts for CV Brokerage.⁴

Administrative expenses paid during this quarter total \$307,132.09 and include (a) \$358.50 in WSFS bank maintenance fees; (b) \$32.00 in WSFS bank fees for incoming wires; (c) \$211.08 for property taxes paid to the Tangipahoa Parish Sheriff’s Office for 2023;⁵ (d) \$102,710.56 in professional fees and expense reimbursement to the Receiver, his Counsel and Accountant pursuant to this Court’s

⁴ These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver (ECF No. 30) and are the subject of a disputed creditor claim asserted by ICBCFS, which is addressed in the First Omnibus Claims Motion described herein.

⁵ The Receiver is expecting a small refund from the Tangipahoa Parish Sheriff’s Office, representing a return of check fees that are no longer being separately charged.

November 2, 2023 Order Approving the Receiver's Eleventh Interim Fee Application (ECF No. 277); (e) \$97,839.53 in professional fees and expense reimbursement to the Receiver, his Counsel and Accountant pursuant to this court's November 2, 2023 Order Approving the Receiver's Twelfth Interim Fee Application (ECF No. 278); (f) \$101,013.42 in professional fees and expense reimbursement to the Receiver's counsel earned in connection with ancillary litigation subject to the contingency fee agreement approved by the Court through its Order Approving the Receiver's Second and Third Motions for Permission to Initiate Litigation on Behalf of the Receivership Estate, (ECF Nos. 161, 167), which attorneys' fees and expenses were deducted pursuant to Orders approving the Receiver's settlement in those cases; and (g) \$4,967.00 in professional fees for an attorney engaged by the Receiver as Retained Personnel to investigate an insurance coverage issue on behalf of the Receivership Estate, pursuant to Paragraphs 57 and 71 of the Receivership Order.

IV. RECEIPTS AND DISBURSEMENTS

Pursuant to Paragraph 68 of the Receivership Order, the schedule of the Receiver's receipts and disbursements, in the form of the Standardized Fund Accounting Report ("SFAR") as prescribed by the SEC, is attached hereto as Exhibit "A".

V. RECEIVERSHIP ASSETS

A. Receivership Bank Accounts

As of the close of fourteenth quarter on December 31, 2023, the balance in the Receivership Accounts was \$8,021,114.37, broken down as follows: \$7,450,261.71 in the WSFS Trust/Savings Account, \$326,888.67 in the WSFS Checking Account, and \$243,963.99 in the Bank of America Account.

B. Settlements

The Receiver reached a settlement in a litigation matter he filed against Richard Shawn Ellis (“Ellis”) and Rose & Thorn Cowlitz, LLC, Rose & Thorn HQ, LLC, Rose & Thorn Denver, LLC, Mainspring, LLC, Semper Genus LLC, Frolic & Revelry, LLC, Hotel Carbon HQ, Inc., and Hotel Carbon 19.06, LLC (collectively “Entity Defendants”) (*see* ECF No. 270) during the prior quarter, which was approved by the Court on November 2, 2023. (*See Kent v. Ellis, et al.*, No. 2:21-cv-20754 (D.N.J.), ECF No. 78).

Without any admission of liability, the parties agreed to resolve all of the Receiver’s claims against Ellis and the Entity Defendants in exchange for the Entity Defendants’ payment of \$1,550,000.00 (“Settlement Amount”) on the following schedule: \$100,000.00 to be paid within 90 days of the settlement, and the balance

to be paid within 18 months from the date of the settlement.⁶ There is a 15% prepayment discount if payment is made in full within 12 months of the settlement date. The Receiver received the initial \$100,000.00 settlement payment from Ellis/the Entity Defendants on December 1, 2023.

Additionally, the Receiver received the second \$400,000.00 installment payment from his settlement with Jeffrey Bydalek, Credit the Americas LP, FX Algo LLC, Hurricane Holdings, Inc., and M3 Media Group, Inc. (“Bydalek Defendants”) on December 18, 2023.

Based on these two existing settlements with extended payout schedules, the Receiver anticipates bringing in an additional \$1,850,000.00 in settlement funds through December 2025.⁷ Additionally, given that MCITC and Carol Johnston have defaulted on their settlement agreement with the Receiver and have since filed for bankruptcy, the Receiver’s claims for additional funds owed by them need to be resolved through the bankruptcy proceedings. The Receiver does not expect material distributions from those bankruptcy proceedings.

⁶ The settlement also includes certain security protections for the Estate. *See Kent v. Ellis, et al.*, 2:21-cv-20754 (ECF No. 74).

⁷ These amounts are subject to certain prepayment discounts if the funds are delivered earlier than anticipated.

The Receiver is actively negotiating potential settlements with several other individuals and/or entities. Many of these potential claims are subject to tolling agreements.

C. Judgments

The Receiver obtained a default judgment against Edward C. Britton and Natural Impact Health and Fitness LP in the amount of \$1,739,863.50, inclusive of pre-judgment interest and partial post-judgment interest. Meanwhile, post-judgment interest continues to accrue pursuant to 28 U.S.C. § 1961. The Receiver is actively pursuing collection of this judgment.

D. Cryptocurrency

The Receiver has learned that at least some cryptocurrency was distributed to an investor, purportedly as a partial in-kind redemption on their investment. The amount and value of the cryptocurrency transferred is being investigated.

E. Private Investments

After efforts to negotiate with Bluwater, stalled, the Receiver file a lawsuit seeking to recover the Receivership Assets transferred to Bluwater on September 19, 2023. *Kent v. Valdes, et al.*, No. 2:23-cv-20475 (D.N.J.) (ECF No. 1).

The Receiver is continuing to attempt to negotiate a resolution relating to Smith's purported interest in the Calais Gold Mine, and is prepared to initiate

litigation if any proposed resolution fails to appropriately compensate the Receivership for Smith's interest and/or the Receivership Assets transferred.

The Receivership has continued to receive distributions on Smith's \$100,000.00 investment in OTAF (Holgate) LLC through the fourteenth quarter. However, the Receiver has been advised that the last portfolio holding of the project has been sold, and that OTAF (Holgate) LLC is in the process of closing down the fund. The Receiver has been advised that there may be two additional investor distributions over the next year for New Jersey non-resident withholding taxes for 2023, and from the residual cash balance of the Fund.

The potential value of Smith's one (1) share in CMCC Development Corp. ("CMCC") is still being investigated.

F. Receivables and Promissory Notes

The Receiver's pursuit of litigation continues to include a promissory note from Sunny Ocean 699, LLC and Agostinho Calcada, individually, valued at over \$1.5 million, plus interest.

G. Louisiana Properties

The Receiver reached an agreement with the mortgaging bank for the BD of Louisiana Property for the sale of the property through an executory process, which was approved by the Court on July 19, 2023. (ECF Nos. 259, 260). There were no

bidders at the first Sheriff's sale. A second Sheriff's sale is expected to take place during the first quarter of 2024.

If B1 Bank is able to sell the Property for more than a certain dollar threshold, either through auction or privately, the Receivership Estate may recover some proceeds from that sale.

H. Additional Bank Accounts and Funds

ICBCFS continues to hold approximately \$444,213.08 in two clearing accounts for CV Brokerage, pursuant to a Stipulation. (ECF No. 30). The Receiver has addressed ICBCFS' claimed security and priority interest in these funds in his First Omnibus Claims Motion (ECF Nos. 254, 256, 258).

I. Personal Property

In total, the Receiver has recovered \$14,188.20 in net proceeds from the sale of personal property through eighteen (18) auctions over the course of the Receivership, after deduction of commissions and related expenses. Additionally, Smith arranged for the pick-up of her personal/sentimental belongings on April 6, 2023. Further, as previously reported, the Receiver has not been able to locate viable options for the sale of computer equipment retrieved from the Equinix data center. The Receiver believes he has exhausted all efforts to market and sell Smith's personal property.

VI. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY RECEIVERSHIP ESTATE

The Receiver has filed thirteen (13) lawsuits over the course of the Receivership. One of those lawsuits has been closed following the entry of a default judgment – *Kent v. Britton, et al.*, 2:22-cv-02845 (D.N.J.). Four of those lawsuits are settled and closed – *Kent v. MCITC, et al.*, 2:21-cv-13104 (D.N.J.), *Kent v. Hooper, et al.*, No. 2:22-cv-01876 (D.N.J.), *Kent v. Bydalek, et al.*, 2:22-cv-01811 (D.N.J.), and *Kent v. Ellis, et al.*, 2:21-cv-20754 (D.N.J.). However, two of the defendants in the MCITC case, Medical Construction Industrial Training Center, LLC (“MCITC”) and Carol Johnson, with whom the Receiver settled his claims, have failed to fulfill their full payment obligations and have filed for bankruptcy. The Receiver submitted his claim in the MCITC bankruptcy case on June 28, 2023, seeking payment of the remaining \$100,000.00 owed, plus interest, pursuant to the terms of the settlement agreement approved by this Court. *See In re Medical Construction Industrial Training Center, LLC*, 23-bk-13260-JNP (Bankr. D.N.J.). The Receiver likewise filed his claim in Ms. Johnston’s bankruptcy case on August 24, 2023. *See In re Carol Ford Johnston Olive*, 23-15398-ABA (Bankr. D.N.J.). The bankruptcy proceedings are ongoing.

VII. CREDITORS

The Receiver summarized the trade creditor claims that have been submitted through the Receivership claims process and identified additional potential creditors who filed lawsuits but did not submit creditor claims in his ninth quarterly status report (ECF No. 213), which is incorporated herein by reference. The disputed creditor claims are further summarized in the Receiver's First Omnibus Claims Motion (ECF No. 254) and Omnibus Reply (ECF No. 258).

VIII. STATUS OF CREDITOR CLAIMS PROCEEDINGS

Pursuant to the Court's adjusted briefing schedule, *see* ECF No. 235, the Receiver re-filed his First Omnibus Motion for Order Resolving Disputed Non-Investor Creditor Claims ("First Omnibus Claims Motion") on July 13, 2023. (ECF No. 254).⁸ The Receiver thereafter filed the responses of Galvin Investment Company, LLC (ECF No. 255), Industrial and Commercial Bank of China Financial Services LLC (ECF No. 256), and Alpha Capital Trading Group, LLC (ECF No. 257). Finally, the Receiver filed his Omnibus Reply in Support of the First Omnibus Claims Motion, which had been served upon all interested parties on July 10, 2023.

⁸ The Receiver's original First Omnibus Claims Motion was filed on March 14, 2023. (ECF No. 232).

(ECF No. 258).⁹ Alpha Capital Trading Group, LLC thereafter filed a further Reply on August 3, 2023. (ECF No. 263).

⁹ The Receiver filed a July 11, 2023 Supplement to the Omnibus Reply, advising the Court that Robert Cornish (former counsel for William McCormack) e-mailed counsel for the Receiver advising that “[w]e are in the process of opening an estate in Collier County, Florida so that we can oppose dismissal of Bill’s claim and deal with his other litigation matters . . . , assuming the Florida court appoints us as counsel. I would ask that you reference that Bill’s claim remains outstanding until his estate appoints counsel to deal with the objection.” (ECF No. 258-1). Mr. Cornish requested that the disposition of Mr. McCormack’s claims be held in abeyance “until his estate appoints counsel to litigate such matters.”

Since that time, the Receiver has attempted to investigate the status of Mr. McCormack’s estate proceedings, which are captioned *In Re: Estate of William Thomas McCormack*, No. 11-2023-CP-001853-0001-XX, proceeding in the Circuit Court for Collier County, Florida. Based upon a review of the limited information available on the public docket, there was a dispute over who would serve as personal representative. Thus, the Receiver e-mailed all known counsel involved in the action on August 16, 2023 and October 3, 2023, placing them on notice of the Receivership Order and Mr. McCormack’s disputed creditor claim, and requesting that they provide an update once the personal representative issues are resolved and/or decided. On October 31, 2023, the Court appointed Gregory J. Ritter as successor personal representative of the Estate of William McCormack. The Receiver has not heard from Mr. Ritter or anyone affiliated with him since his appointment. In fact, the only person who has provided the Receiver with any updates since Mr. Ritter’s appointment is Mr. McCormack’s former counsel, Robert V. Cornish, Jr.

Mr. McCormack’s former counsel filed a Motion to Withdraw as Counsel after the close of the quarter on January 22, 2024 (ECF No. 284), along with a Notice of Attorney’s Lien in the amount of \$99,749.41 for legal services rendered to William McCormack, and owed by Mr. McCormack’s Estate (ECF No. 283). The Motion to Withdraw indicates that “[d]ue to irreconcilable differences with the Estate Administrator that that now prevent undersigned counsel from representing the Estate of William McCormack in any court or litigation proceeding of any kind, Amanda M. Cunha and the Law Offices of Robert V. Cornish, Jr., PC hereby request withdrawal from all representation of or relating to William McCormack in this matter.” (ECF No. 284, ¶ 4). The Motion to Withdraw directs that all further

At the time the Receiver initially filed his original First Omnibus Claims Motion, the Receiver had received and processed a total of thirty-seven (37) Investor Creditor Claims totaling \$69,373,769.53,¹⁰ and fifteen (15) Non-Investor Creditor

communications should be directed to the Estate Administrator, Gregory J. Ritter, Esq. *Id.* at ¶ 7.

Gregory Ritter was included on the Receiver's Counsel's August 16, 2023 and October 3, 2023 communications referenced above, and in the October 3rd email, the Receiver's Counsel requested: "Can someone please provide me with an update on status, and advise whether somebody intends to contest the Receiver's Omnibus Motion on behalf of the Estate? If so, an estimate regarding the additional time needed to file a response would be much appreciated, so I can notify the Receivership Court accordingly." To date, the Receiver still has not received any affirmative response indicating that the Estate of William McCormack intends to contest the Receiver's First Omnibus Claims Motion, and the Motion to Withdraw suggests that the Estate of William McCormack does not intend to move forward with Mr. McCormack's creditor claim. From the Receiver's perspective, the Estate of William McCormack has received ample notice regarding the First Omnibus Claims Motion and has failed to respond or even indicate that it intends to respond, and it is unfair to the other investor and non-investor claimants in this action to delay a ruling on the First Omnibus Claims Motion any further for the William McCormack Estate's benefit.

The Court entered an order providing that oppositions to the Motion to Withdraw are due by February 6, 2024, and that Mr. McCormack's former counsel must serve the Estate Administrator with sufficient notice. (ECF No. 287). The Court also scheduled a telephone hearing for February 23, 2023. *Id.* If Mr. McCormack's Estate fails to respond or appear, it is respectfully requested that the Court view the Estate of William McCormack's lack of responsiveness as a decision not to oppose the First Omnibus Claims Motion.

¹⁰ For purposes of this filing, this includes investors who invested money in any of the Receivership Parties, not just Broad Reach Capital or TA1.

claims totaling \$86,921,909.87, for total claims of \$156,295,679.40.¹¹ (*See* ECF No. 232). However, the Receiver has since resolved the disputed creditor claim of Southern Minerals Group. The Receiver has now confirmed the creditor claim of Southern Minerals Group in the amount of \$160,000.00, which negotiated amount represents the claim amount that will be attributed to SMG for purposes of a future distribution process when the Receiver proposes a plan of distribution to the Court.¹²

With the resolution of Southern Minerals Group's claim—previously asserted in the amount of \$21,929,259.00—the amount of total claims against the Receivership Estate has been reduced to \$134,526,420.40, and the total amount of non-investor creditor claims has been reduced to \$65,152,650.87. (*See* ECF No. 258).

IX. RECEIVER'S RECOMMENDATIONS FOR CONTINUATION OR DISCONTINUATION OF THE RECEIVERSHIP

Given the Receiver's continued investigation and pursuit of litigation, the claims asserted by the IRS, the pendency of the Creditor Claims Proceedings and need for those to conclude before any distribution can be proposed and order of preference adjudicated, and the extended payout schedules associated with certain

¹¹ This includes a claim from the IRS. These numbers exclude claims that were withdrawn prior to the filing of the First Omnibus Claims Motion. They also exclude claims for amounts that were submitted after the Claims Bar Date.

¹² Southern Minerals Group has represented that it has not assigned its claim.

settlement agreements, the Receiver does not have a projected date by which he expects the Receivership to close.

X. CONCLUSION

The Receiver, Kevin Dooley Kent, hereby respectfully submits this Fourteenth Quarterly Status Report for the Court's review.

Respectfully Submitted,

Date: 1/29/2024

s/Robin S. Weiss
Robin S. Weiss, Esq.
Clark Hill PLC
Two Commerce Square
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Fax: 215-640-8501
rsweiss@clarkhill.com

*Attorneys for Receiver, Kevin Dooley
Kent*

EXHIBIT “A”

Kevin Dooley Kent
Two Commerce Square
2001 Market Street, Suite 2620
Philadelphia, PA 19103
(215) 640-8500

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL – RECEIVERSHIP FUND

Brenda Smith, Broad Reach Capital, LP, Broad Reach Partners,
LLC, and Bristol Advisors, LLC
Civil Action No.: 2:19-cv-17213-MCA-ESK

REPORTING PERIOD 10/01/2023 TO 12/31/2023

STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis
 Receivership; Civil Court Docket No. 2:19-CV-17213-MCA-ESK
 REPORTING PERIOD 10/01/2023 TO 12/31/2023

FUND ACCOUNTING (See Instructions):		Current Reporting Period - 10/01/23 to 12/31/23			06/29/2020 - 12/31/2023
		Detail	Subtotal	Period Total	Case to Date
Line 1	Beginning Balance (As of 10/01/23):			\$ 7,773,911.13	\$ -
	<i>Increases in Fund Balance:</i>				
Line 2	Business Income			-	-
Line 3	Cash and Securities			-	8,333,454.80
Line 4	Interest/Dividend Income			54,156.27	174,334.64
Line 5	Business Asset Liquidation			-	700.00
Line 6	Personal Asset Liquidation			179.06	565,323.08
Line 7	Third-Party Litigation Income			500,000.00	2,449,990.17
Line 8	Miscellaneous - Other			-	-
	Total Funds Available (Lines 1 – 8):			\$ 8,328,246.46	\$ 11,523,802.69
	<i>Decreases in Fund Balance:</i>				
Line 9	Disbursements to Investors/Claimants			-	258,776.99
Line 10	Disbursements for Receivership Operations			307,132.09	3,225,091.55
Line 10a	Disbursements to Receiver or Other Professionals			306,530.51	
Line 10b	Business Asset Expenses			211.08	
Line 10c	Personal Asset Expenses			-	
Line 10d	Investment Expenses			390.50	
Line 10e	Third-Party Litigation Expenses				
	1. Attorney Fees			-	
	2. Litigation Expenses			-	
	Total Third-Party Litigation Expenses			-	
Line 10f	Tax Administrator Fees and Bonds			-	
Line 10g	Federal and State Tax Payments			-	
	Total Disbursements for Receivership Operations			\$ 307,132.09	\$ 3,483,868.54
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			-	18,819.78
Line 11a	Distribution Plan Development Expenses:				
	1. Fees:				
	Fund Administrator			-	
	Independent Distribution Consultant (IDC)			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Miscellaneous			-	
	Total Plan Development Expenses			-	
Line 11b	Distribution Plan Implementation Expenses:				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Investor Identification:				
	Notice/Publishing Approved Plan			-	
	Claimant Identification			-	
	Claims Processing			-	
	Web Site Maintenance/Call Center			-	
	4. Fund Administrator Bond			-	
	5. Miscellaneous			-	
	6. Federal Account for Investor Restitution (FAIR)			-	
	Reporting Expenses			-	
	Total Plan Implementation Expenses			-	
	Total Disbursements for Distribution Expenses Paid by the Fund			\$ -	\$ 18,819.78
Line 12	Disbursements to Court/Other:			-	-
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			-	-
Line 12b	Federal Tax Payments			-	-
	Total Disbursements to Court/Other			\$ -	\$ -
	Total Funds Disbursed (Lines 9 – 11):			\$ 307,132.09	\$ 3,502,688.32
Line 13	Ending Balance (As of 12/31/23):			\$ 8,021,114.37	\$ 8,021,114.37
Line 14	Ending Balance of Fund – Net Assets:				
Line 14a	Cash & Cash Equivalents			8,021,114.37	8,021,114.37
Line 14b	Investments			-	-
Line 14c	Other Assets or Uncleared Funds			-	-
	Total Ending Balance of Fund – Net Assets			\$ 8,021,114.37	\$ 8,021,114.37

[1]

STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis
 Receivership: Civil Court Docket No. 2:19-CV-17213-MCA-ESK
 REPORTING PERIOD 10/01/2023 TO 12/31/2023

OTHER SUPPLEMENTAL INFORMATION:		Current Reporting Period - 10/01/23 to 12/31/23			06/29/2020 - 12/31/2023
		Detail	Subtotal	Period Total	Case to Date
Line 15	Report of Items NOT To Be Paid by the Fund:				
	Disbursements for Plan Administration Expenses Not Paid by the Fund:			\$ -	\$ -
Line 15a	Plan Development Expenses Not Paid by the Fund:				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Miscellaneous			-	
	Total Plan Development Expenses Not Paid by the Fund			\$ -	
Line 15b	Plan Implementation Expenses Not Paid by the Fund:				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Investor Identification:				
	Notice/Publishing Approved Plan			-	
	Claimant Identification			-	
	Claims Processing			-	
	Web Site Maintenance/Call Center			-	
	4. Fund Administrator Bond			-	
	5. Miscellaneous			-	
	6. FAIR Reporting Expenses			-	
	Total Plan Implementation Expenses Not Paid by the Fund			\$ -	
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund				
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund				
Line 16	Disbursements to Court/Other Not Paid by the Fund:				
Line 16a	Investment Expenses/CRIS Fees				
Line 16b	Federal Tax Payments				
	Total Disbursements to Court/Other Not Paid by the Fund:				
Line 17	DC & State Tax Payments			\$ -	\$ -
Line 18	No. of Claims:				
Line 18a	# of Claims Received This Reporting Period				
Line 18b	# of Claims Received Since Inception of Fund				52
Line 19	No. of Claimants/Investors:				
Line 19a	# of Claimants/Investors Paid This Reporting Period				
Line 19b	# of Claimants/Investors Paid Since Inception of Fund				1 [1]

Notes

[1] In accordance with the Motion of Receiver, Kevin D. Kent, Esquire, to Approve a Settlement Resolving the Receiver's April 9, 2021 Motion to Determine Ownership of Taylor Trading, LLC Account (ECF No. 130) ("Taylor Trading Motion") and the Order Confirming Ownership of Taylor Trading, LLC Account Proceedings (ECF No. 134), the Receiver arranged for the transfer of 50% of the balance of the Taylor Trading, LLC bank account maintained with PNC Bank ("Taylor Trading Account") to investor Surefire Dividend Capture, LP ("Surefire") on November 19, 2021. Surefire had filed claims against, *inter alia*, Scott Koppenheffer in a lawsuit filed in the Eastern District of Pennsylvania captioned *Surefire Dividend Capture, LP v. Smith et al.*, No. 2:19-cv-04088 (E.D. Pa.) (the "Surefire Action"). Surefire agreed to resolve its claims against Mr. Koppenheffer in exchange for, *inter alia*, an assignment of Mr. Koppenheffer's rights (if any) to the Taylor Trading Account. The Receiver and Surefire then agreed to resolve the Taylor Trading Motion by splitting the balance in the Taylor Trading Account, which amount will be deducted from any future distribution made by the Receiver to Surefire. This settlement resulted in a meaningful recovery for the Receivership Estate while eliminating the risk and cost of litigating the issue of account ownership with Mr. Koppenheffer and/or Surefire.

Receiver:

By: Kevin Dooley Kent
(signature)

Kevin Dooley Kent
(printed name)

Receiver
(title)

Date: 01/22/2024

NOTES TO THE STANDARDIZED FUND ACCOUNTING REPORT**Receivership Cash Accounts**

As of December 31, 2023, the Receiver's cash balance of \$8,021,114.37 was maintained in checking and savings accounts at Bank of America and WSFS Bank with the following balances:

Receivership Cash Account Balances - December 31, 2023

Financial Institution	Account Type	Balance
Bank of America	Checking	243,963.99
WSFS Bank	Checking	326,888.67
WSFS Bank	Savings	7,450,261.71
Total Cash		\$8,021,114.37

Investments, Real and Personal Property

As described more fully in the Receiver's Fourteenth Quarterly Status Report, the Receiver is in the process of identifying and liquidating all the investments, real and personal property of the Receivership Parties.

In addition to the transactions reflected within the Standardized Fund Accounting Report, the Receiver anticipates recovering future distributions related to Brenda Smith's personal investment in OTAF LLC.

The Receivership has an interest in two parcels in Tangipahoa Parish, Louisiana, owned by BD of Louisiana, LLC ("BD of Louisiana Property"). Due to an inability to secure a private buyer for the BD of Louisiana Property, on June 30, 2023, the Receiver entered into a Creditor Agreement with b1BANK, authorizing it to initiate mortgage foreclosure proceedings and pursuant to which the Receiver is entitled to the proceeds above a certain threshold.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**BRENDA SMITH, BROAD REACH
CAPITAL, LP, BROAD REACH
PARTNERS, LLC, and BRISTOL
ADVISORS, LLC,**

Defendants.

C. A. No. 2:19-cv-17213 (MCA)

**CERTIFICATE OF
SERVICE**

I hereby certify, this 29th day of January, 2024, that I caused to be served a true and correct copy of the Receiver Kevin Dooley Kent's Fourteenth Quarterly Status Report, upon Plaintiff, Securities and Exchange Commission, through counsel of record, and upon counsel of record for all other parties, by electronic filing pursuant to Fed.R.Civ.P. 5(b), and upon Defendant, Brenda A. Smith, on behalf of all defendants, via first-class mail, postage prepaid, as follows:

Brenda A. Smith
Register No. 72832-050
FCI Danbury
Federal Correctional Institution
Route 37
Danbury CT 06811

s/ Robin S. Weiss
Robin S. Weiss, Esq.
Attorney for Receiver, Kevin Dooley Kent,
Esq.