

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

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**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

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

**Defendants.**

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

**RECEIVER KEVIN D. KENT'S THIRD QUARTERLY  
STATUS REPORT**

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The Receiver, Kent D. Kent, Esq., 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. (Dkt. No. 22). The Receivership Assets include assets of Defendants, Brenda Smith (“Smith”); Broad Reach Capital, LP; Broad Reach Partners, LLC; and Bristol Advisors, LLC (“Defendants”); and all affiliated companies owned or controlled by one or more of the Defendants, including 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 Lending LLC; CV Minerals LLC; BD of Louisiana, LLC; TA 1, LLC; FFCC Ventures LLC; Prico Market LLC; GovAdv Funding LLC; Elm Street Investors LLC; Investment Consulting LLC; and Tempo Resources LLC (“Affiliated Entities”). The Receiver hereby submits this Third Quarterly Status Report (the “Report”), in accordance with Paragraphs 67 and 68 of the Receivership Order, and reports to the Court as follows:

## **I. INTRODUCTION**

On August 27, 2019, the Securities and Exchange Commission (“SEC”) filed a Complaint against Defendants, Brenda A. Smith (“Brenda Smith” or “Smith”), Broad Reach Capital, LP, Broad Reach Partners, LLC and Bristol Advisors, LLC, alleging that these Defendants raised approximately \$105 million

from at least forty (40) investors, based upon Brenda Smith's false representations that these funds would be invested in highly liquid securities through various sophisticated and profitable trading strategies with consistently high returns. (Dkt. No. 1). According to the Complaint, in reality, the vast majority of these investments were funneled into unrelated companies, used to pay back other investors, or utilized for personal use; meanwhile, Defendants generated and provided false performance statements and fabricated documents regarding the Fund's assets and valuations, to lull existing and prospective investors. The SEC estimates that Defendants' investors are still owed in excess of \$63 million in principal.

In conjunction with the Complaint, the SEC secured a Temporary Restraining Order Freezing Assets and Granting Other Relief on August 27, 2019. (Dkt. No. 3). A Preliminary Injunction extending the freeze was subsequently entered on September 10, 2019. (Dkt. No. 7). The asset freeze remains in effect, and has been modified and/or extended by the June 29, 2020 Receivership Order.

In the June 29, 2020 Receivership Order, the Court took exclusive jurisdiction and possession of all Receivership Assets including, but not limited to, assets of Broad Reach Capital, LP; 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 Lending LLC; CV Minerals LLC; BD of Louisiana, LLC; TA1, LLC; FFCC Ventures LLC; Prico Market LLC; GovAdv Funding LLC; Elm Street Investors LLC; Investment Consulting LLC; and Tempo Resources LLC (collectively referred to as “Receivership Parties”). Receivership Order, ¶ 1. This includes assets that are (1) attributable to assets derived from investors or clients of Defendants; (2) are held in constructive trust for the Defendants; (3) were fraudulently transferred by the Defendants; and/or (4) may otherwise be included as assets of the estates of the Defendants or Affiliated Entities (hereinafter collectively referred to as “Receivership Assets” or “Receivership Estate”).

The Order explicitly identifies the following known assets, believed to be owned, possessed, or controlled by the Receivership Parties or Brenda Smith, as

Receivership Assets:

Personal property at Smith’s former residence at 222 West Rittenhouse Square, Penthouse 3, Philadelphia, Pennsylvania; any vehicles owned by Smith, the Receivership Parties, or Affiliated Entities; personal property or office equipment at the former office spaced used by Defendants at 200 Four Falls Corp., Suite 211, 1001 Conshohocken State Road, West Conshohocken, Pennsylvania; certain real property at David Road and Adams Road, Parish of Tangipahoa, Louisiana; bank or brokerage accounts held or controlled by Smith; interests in any securities (such as stocks, bonds, and options); and securities purchased by Prico LLC, including but not limited to securities of LYFT Inc. and Palantir Technologies; interests in any cryptocurrency, digital currencies, or virtual currencies; digital or electronic property; intellectual property; receivables; minerals or mineral rights; and interests in any companies or partnerships.

Receivership Order, ¶ 2. Receivership Assets also include frozen accounts in the names of Prophecy Alpha Fund LP; Raffle Trading LLC; Ardeleigh Investment Advisory Services, Ltd.; Taylor Trading LLC; Awooton Consulting; and Rybicki Capital Partners LLC, though certain third parties have expressed an interest or ownership of certain assets in these accounts. Receivership Order, ¶ 3.

Pursuant to the Receivership Order, this Report provides a full report and accounting of the Receivership Estate, reflecting the existence, value and location of all known Receivership Assets, and the extent and nature of known liabilities. However, the Receiver believes that other assets and liabilities may exist, which have not yet been identified. This Report will necessarily be supplemented by subsequently filed quarterly status reports, which will likely identify additional assets and/or liabilities of the Receivership Estate.

## **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. During the first nine (9) months of the Receivership, the Receiver, his Counsel and Accountants have focused a majority of their efforts on identifying, locating, and assuming control of, Receivership Assets, and identifying potential sources of recovery of additional assets, with the objective of preserving these assets and maximizing recovery for defrauded investors. The Receiver is generally of the position that all real and

personal property of value belonging to the Receivership Estate should be monetized and/or liquidated, to the extent feasible, and has sought necessary authority from the Court in connection with these liquidation efforts.<sup>1</sup> The Receiver has also begun requesting authority from the Court to initiate litigation against certain individuals and/or entities, and anticipates filing similar motions with regard to other prospective defendants in the future.

To date, the main sources of recovery for the Receivership have been funds secured from several bank accounts and through the sale of Receivership holdings in publicly traded securities, as well as payments received on a secured promissory note from Spouting Rock Holdings, LLC (“Spouting Rock”). These sources have resulted in an infusion of approximately \$7.5 million over the last nine (9) months.

Additional high-priority sources of potential funds include the sale of properties located in Louisiana, Brenda Smith’s personal vehicle, as well as personal property located at Smith’s Rittenhouse apartment. The Receiver has filed motions seeking approval to initiate the process of liquidating these assets. Further, there is in excess of \$700,000.00 in frozen, contested bank accounts, and on April

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<sup>1</sup> See, e.g., Receiver’s Motion to Retain a Wealth Management Firm and for Discretion to Liquidate Receivership Holdings in Publicly Traded Securities (Dkt. No. 36); Receiver’s Motion for Appointment of Real Property Appraisers and Approval to Retain Realtor (Dkt. No. 45); and Receiver’s Motion for Permission to Sell Brenda Smith’s Vehicle and Personal Property at Smith’s Rittenhouse Apartment (Dkt. No. 47).



9, 2021, the Receiver filed a Motion to Determine Ownership of Taylor Trading, LLC account. (Dkt. No. 76). Forensic analysis and investigation is ongoing with regard to the other contested frozen accounts in order to ascertain whether these funds rightfully belong to the Receivership Estate.

Additionally, there are roughly \$450,000.00 in disputed funds currently held by Industrial and Commercial Bank of China Financial Services (ICBCFS), in accordance with the Stipulation to Resolve ICBCFS's Motion to Amend the Order Appointing Receiver filed on September 8, 2020 (Dkt. No. 30). Finally, the Receiver has already sought approval from the Court to initiate litigation against several entities and/or individuals on behalf of the Receivership Estate, (Dkt. No. 49), and the Receiver and his Accountants are in the process of identifying, considering, evaluating, investigating other potential claims against third parties.

The operations of the Receiver are outlined in further depth, by category, below.

**A. Litigation-Related Activities**

The Receiver has engaged in a significant amount of motion practice during this quarter. These litigation-related activities include, *inter alia*, the following:

On January 4, 2021, the Receiver filed a Motion to Approve Proposed Protocol for Review of Electronic Data in order to enable him, his Counsel and Accountants to review electronic data from a cloud-based storage account

maintained by various Receivership Parties, as well as data contained on server equipment, while preserving privileges maintained by Brenda Smith. (Dkt. No. 46). This Motion was approved after the close of the quarter, on April 5, 2021. (Dkt. No. 72).

On January 8, 2021, the Receiver filed a Motion for Permission to Sell Brenda Smith's Vehicle and Personal Property at Smith's Rittenhouse Apartment. (Dkt. No. 47). This Motion has not yet been ruled upon.

On January 29, 2021, the Receiver filed his Second Quarterly Status Report, which outlined the activities of the Receiver for the period October 1, 2020 through December 31, 2020. (Dkt No. 48).

On February 9, 2021, the Receiver filed a Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate seeking, *inter alia*, permission to pursue claims against Nottingham Company ("Nottingham") (and its employees and/or agents, where necessary and/or appropriate), Sanville & Company ("Sanville") (and its employees and/or agents, where necessary and/or appropriate), and Jordan Denise and her entities Entercore, Inc. and Orange Splendor, Inc. (Dkt. No. 49). On March 16, 2021, the day after the assigned Motion Day, William McCormack ("McCormack") and Anthony Scott Koppenheffer ("Koppenheffer") filed a Motion to Intervene for the limited purpose of opposing the Motion, and an Opposition to the Motion. (Dkt. Nos. 59, 60). They

subsequently filed corrected versions of those filings on March 18, 2021. (Dkts. No. 62, 63). The Receiver filed a Reply in Support of the Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate on March 23, 2021. (Dkt. No. 66). After the close of the quarter, on April 5, 2021 the Receiver filed a Response in Opposition to the Motion to Intervene. (Dkt. No. 74).<sup>2</sup> Following a telephone status conference with the Honorable Edward S. Kiel on April 28, 2021, the Motion to Intervene was granted on April 29, 2021. (Dkt. No. 81).

On February 16, 2021, the Receiver filed an Emergency Motion to Enforce this Court's June 29, 2020 Order Appointing Receiver and Hold Jeffrey Ciachurski in Civil Contempt for Failure to Comply Therewith, in connection with Mr. Ciachurski's efforts to prevent the Receiver from consummating the sale of Receivership stock in Greenbriar Capital Corp. and to take back the shares in Greenbriar Capital Corp. held by CV Brokerage, Inc., which actions could have caused the Receivership to suffer imminent and significant financial harm. (Dkt. No. 52). Ultimately, Mr. Ciachurski agreed to the removal of the restrictive legend on the share certificate, so that the sale was able to be completed. Accordingly, the Receiver withdrew the Emergency Motion, without prejudice, on March 2, 2021. (Dkt. No. 58).

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<sup>2</sup> The SEC also filed responses to the Motion to Intervene and Opposition to Motion to Initiate Litigation filed by McCormack and Koppenheffer. (Dkt. Nos. 67, 73).

On February 18, 2021, Vivian Williams filed a Petition for Relief from Stay of June 29, 2020 Order, in connection with an action she filed in Montgomery County against Brenda Smith, George Heckler, CV Special Opportunity Fund LP and CV Fund Partners, LLC. (Dkt. No. 56). Ultimately, after numerous communications regarding the Petition, Counsel for the Receiver and counsel for the SEC advised Ms. Williams' counsel that they had no objection to the case continuing as to non-Receivership defendants, so long as the claims against Brenda Smith remain stayed. Accordingly, on February 26, 2021, counsel for Ms. Williams withdrew the Petition for Relief from Stay, thereby obviating the need for the Receiver to file a response. (Dkt. No. 57).

On March 23, 2021, the Receiver, through Counsel, filed a request for a Status Conference to, *inter alia*, provide further information to the Court regarding his activities, answer any questions the Court may have, and facilitate resolution of the pending Motions. (Dkt. No. 68). Following that filing, this Court entered Orders granting three of the pending Motions on April 5, 2021: the Motion for Approval of First Interim Fee Application for the Period June 29, 2020 through September 30, 2020 (Dkt. No. 70); the Motion for Appointment of Real Property Appraisers and Approval to Retain Realtor (Dkt. No. 71); and the Motion for Approval of the Receiver's Proposed Protocol for Review of Electronic Data (Dkt. No. 72). The following Motions identified in the Receiver's Request for a Status

Conference remain pending: the Motion for Permission to Sell Brenda Smith's Vehicle and Personal Property at Smith's Rittenhouse Apartment (Dkt. No. 47); the Receiver's Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate (Dkt. No. 49); and the Receiver's Motion for Approval of Second Interim Fee Application for the Period October 1, 2020 through December 31, 2020 (Dkt. No. 50).

Finally, on April 9, 2021, the Receiver filed a Motion to Determine Ownership of Taylor Trading, LLC account. (Dkt. No. 76). Although this was filed after the close of the quarter, nearly all of the work leading up to this filing, including the account analysis, legal research, and negotiations with counsel for Koppenheffer, occurred during the third quarter.

**B. Collection and Storage of Belongings, Professional Equipment and Data**

As noted in previous quarterly status reports, following numerous visits to Brenda Smith's Rittenhouse Apartment, as well as visits to the Four Falls Office Space in Conshohocken and the Equifax Data Center in New Jersey, the Receiver, with the assistance of his staff, took inventory of and collected documents, personal property, and other valuable items at these locations. Additionally, with the assistance of a private investigator and a towing company, administrative staff also located and took possession of Smith's 2017 Infiniti, which is being stored in a secure location. Smith's belongings from her Rittenhouse Apartment likewise

remain in storage while the Receiver awaits a ruling on his Motion for Permission to Sell Brenda Smith's Vehicle and Personal Property at Smith's Rittenhouse Apartment. (Dkt. No. 47).

The server equipment retrieved from the data center is currently in the possession of the SEC for processing. After an analysis of the server data is complete, the Receiver will make arrangements for the return of the server equipment, and file a motion seeking permission from the Court to sell the equipment for the benefit of the Receivership Estate, if feasible.

The Receiver was able to obtain a back-up server from a former IT director for some of the Receivership Parties, as well as substantial electronic data from a cloud-based storage account maintained by various Receivership Parties. This data, along with other documents secured and/or received by the Receiver, has been downloaded and preserved by an e-discovery vendor which provides in-house services to the Receiver's court-approved forensic accountant, Alvarez & Marsal. This vendor provided the most competitive estimate for data processing and hosting, by far. Alvarez & Marsal's Forensic Technology team has been coordinating and managing these efforts, including processing, importing, organizing and conducting quality control analysis and review for substantial amounts of data and documents from various sources.

### **C. Louisiana Properties**

As noted in previous status reports, the Receiver, with the assistance of Counsel and his paralegal, located four (4) parcels of property located in Tangipahoa Parish, Louisiana, two of which are owned by Brenda Smith personally (“Smith Property”), and two of which are owned by BD of Louisiana, LLC (“BD of Louisiana Property”) (collectively, “Tangipahoa Properties” or “Louisiana Properties”). The Receiver’s counsel has conducted extensive research and document review with regard to the properties. In addition to filing *lis pendens* notices with regard to the four parcels on July 24, 2020, and communicating with counsel for B1 Bank, which holds a mortgage on the BD of Louisiana Property, the Receiver redeemed the properties after learning that they were sold at a tax sale on June 30, 2020 for failure to pay taxes in 2019, through the payment of the delinquent taxes and associated penalties. Redemption deeds for all four (4) properties were recorded on October 23, 2020, and the Tangipahoa Parish Assessor now identifies only BD of Louisiana and Smith as owners of their respective properties. The Receiver also paid property taxes for all four (4) parcels on December 8, 2020.

After the close of the quarter, on April 5, 2021, this Court granted the Receiver’s Motion for Appointment of Real Property Appraisers and Approval to Retain Realtor (Dkt. No. 71). The Receiver has since been communicating with the

real estate agent, Godwyn & Stone Brokerage (“Godwyn & Stone”) and, with their guidance and participation, is in the process of attempting to secure and enter the properties with the assistance of local law enforcement, and then arrange for the appraisals to take place. If necessary the Receiver will travel to the Louisiana Properties to assist with securing and accessing the properties. The Receiver anticipates having significant updates regarding the Louisiana Properties during the next few months.

**D. Bank Accounts and Records**

Receivership funds currently remain in the centralized Receivership Account with Bank of America (“Receivership Account”). At the beginning of this quarter, the balance in the Receivership Account was \$1,397,707.24. The balance of the Receivership Account as of the close of this quarter on March 31, 2021 was \$7,484,424.76, while total cash on hand was \$7,484,425.87.<sup>3</sup> Deposits during this quarter include final payments from Spouting Rock on the secured promissory note in the amount of \$600,000.00 on January 22, 2021, and \$1,299,634.00 on January 29, 2021, which includes accrued interest on the note. These payments were made in response to multiple demands from the Receiver and his Counsel. Additional deposits include an additional \$20,811.60 from PNC on January 19, 2021,

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<sup>3</sup> This includes \$1.11 remaining in the Receiver’s brokerage account with Raymond James, which the Receiver transferred to the Receivership Account after the close of the quarter.



\$4,112,976.00 on March 1, 2021 from the sale of Palantir stock, and \$62,034.05 on March 2, 2021 from the sale of stock in Greenbriar Capital Corp.

The Receiver has received document productions from PNC Bank, Industrial and Commercial Bank of China Financial Services (ICBCFS), Citizens Bank, B1 Bank, Wedbush Securities Inc. and TradeStation Securities. The Receiver has submitted supplemental document requests to PNC which are necessary for the Accountants to complete their financial account reconstruction.

As noted in the Receiver's prior quarterly status reports, the Receiver has only received minimal cooperation from overseas banks. The Receiver is investigating all cost-effective options which may be available to enable access to these accounts, including, *inter alia*, making arrangements for Brenda Smith to turn over signatory authority on overseas accounts under her control, and possibly having the Receiver formally take over as director of Receivership Party CV International Investments. Ultimately, however, the Receiver may be required to retain local counsel to domesticate the Receivership Order and compel the production of account documents and the turnover of funds, if it is determined that there are sufficient assets held in overseas accounts to justify the cost of doing so.

**E. Brokerage Account and Liquidation of Stock Holdings**

As outlined in the Receiver's prior status reports, the Receiver identified several Receivership holdings in publicly traded securities, and previously sought,

and obtained, permission from this Court to retain Terry Fant, CFP and Eric Geedey, of Raymond James, for the purpose of opening a brokerage account to hold Receivership stock holdings, providing financial guidance and advice to the Receiver with regard to the potential sale of Receivership stock holdings, and coordinating and assisting with the potential sale and/or liquidation of Receivership stock holdings. (Dkt. Nos. 36, 39).

The Receiver previously sold 36,000 of Prico Market LLC's ("Prico") shares in Palantir Technologies ("Palantir") at a price of \$9.4183 per share, which, after payment of fees and commissions and the accrual of interest, resulted in an infusion of \$337,605.43 to the Receivership Account on October 21, 2020. Additionally, the Receiver sold CV Brokerage's 932 shares in Tremor International Limited ("Tremor") for under \$5.00 per share, which, after payment of fees and commissions and the accrual of interest, resulted in the transfer of \$4,432.88 to the Receivership Account on December 30, 2020.

Prico's remaining 144,000 shares in Palantir remained locked-up until the expiration of the lock-up period on February 18, 2021. Within a few days of the expiration of the lock-up period, the Receiver sold these remaining shares for \$28.6130 per share.<sup>4</sup> After payment of commission to Raymond James at the rate

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<sup>4</sup> For purposes of comparison, as of April 30, 2021, Palantir was trading at approximately \$23.37 per share.

of 5 cents per share and other associated fees, this resulted in the infusion of \$4,112,976.00 to the Receivership Account on March 1, 2021.

The Receiver also successfully sold CV Brokerage's 50,000 shares in Greenbriar Capital Corp. at an average price of \$1.2674 per share. After payment of commission to Raymond James at the rate of 2 cents per share and other associated fees, along with the accrual of interest, this resulted in the infusion \$62,034.05 into the Receivership Estate on March 2, 2021.

Significant complications arose with regard to the sale of the shares in Greenbriar Capital Corp., due to efforts by its CEO, Jeffrey Ciachurski, to block the sale, which would have had serious and imminent financial consequences for the Receivership Estate. After extensive research and communications with Mr. Ciachurski, Counsel for the SEC, Raymond James, Computershare, and upon consultation with Canadian counsel, the Receiver was eventually forced to file an Emergency Motion to Enforce this Court's June 29, 2020 Order Appointing Receiver and Hold Jeffrey Ciachurski in Civil Contempt for Failure to Comply Therewith. (Dkt. No. 52). After that filing, and after a joint call with the Receiver and his Counsel, and counsel for the SEC, Mr. Ciachurski agreed to allow for the removal of the restrictive legend on the share certificate held by CV Brokerage, so that the sale could be completed on the Toronto Venture Exchange in accordance

with applicable securities laws. Accordingly, the Receiver withdrew the Emergency Motion, without prejudice, on March 2, 2021. (Dkt. No. 58).

In addition to the above, the Receiver is in the process of attempting to locate, pursue and secure Lyft shares belonging to the Receivership which were transferred to a third party in or before August 2019. The Receiver continues to work to identify additional potential stock holdings which may rightfully belong to Receivership Parties.

**F. CV International Investments Limited**

At the outset of the Receivership, the Receiver sent notice and a copy of the Receivership Order to Steven David Barnes, who became the Director of CV International Investments Limited (“CV International”), on or about June 1, 2020. The Receiver also sent notice to the Companies House of England and Wales (“Companies House”), where CV International is registered.

In response to the Receiver’s Notice, Mr. Barnes denied that CV International held any assets, and denied that it was engaging in any business activities currently. He proposed having ownership of CV International turned over to the Receiver, so that he would not be left directing a company over which he has no control. The Receiver had been contemplating the possibility of taking over the company, but had very little knowledge regarding the operation of the company and had been trying to gain a better understanding through record review.

On January 6, 2021, Mr. Barnes filed an Application to Strike Off with Companies House, seeking dissolution. If struck off and dissolved, any assets of CV International Investments would be passed to the Crown pursuant to the Companies Act of 2006.<sup>5</sup> The Receiver promptly retained Elizabeth Seborg, Solicitor, of Byrne and Partners LLP, in a limited engagement for advice and counsel with regard to (a) the filing of objections to the Application to Strike Off; and (b) the benefits, potential risks, and other considerations about which the Receiver must be aware before agreeing to formally take over as director of CV International. The Receiver paid \$6,858.13 USD for this engagement.<sup>6</sup>

After receiving the advice and counsel of Ms. Seborg, the Receiver attempted to negotiate with Mr. Barnes, and offered to take over as director of the company, so long as Mr. Barnes agreed to withdraw the application to strike off and provide copies of all information and documentation in his possession concerning the company and circumstances surrounding his appointment, including all correspondence with previous directors, representatives and/or

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<sup>5</sup> This would include assets in overseas bank accounts for which the Receiver has been able to obtain little to no information to date.

<sup>6</sup> Ms. Seborg has advised that the legal fees necessary to have the Receivership Order recognized in the United Kingdom would likely exceed \$10,000.00. The Receiver has not engaged Ms. Seborg for this purpose, and should he determine in the future that recognition of the Receivership Order in the United Kingdom will be financially beneficial for the Receivership Estate, he will seek appropriate authority from this Court in accordance with Paragraphs 11(F) and 71 of the Receivership Order.

attorneys. At this time, Mr. Barnes remains unwilling and/or unable to provide this information to the Receiver.

Accordingly, the Receiver filed detailed objections to the Application to Strike Off with Companies House on March 4, 2021. On March 9, 2021, Companies House acknowledged receipt of the objection to the strike off/dissolution of CV International, and notified the Receiver that in light of the information and evidence presented, they suspended the strike-off action until September 6, 2021. They advised that, in order to maintain the objection after that date, the Receiver needs to file additional objections. The Receiver and his Counsel are utilizing this additional time to attempt to learn more about the Company.

**G. Submission of Claim Under Fidelity Bond**

Through their investigation and numerous document requests to various insurers and insurance brokers, the Receiver and his Counsel identified potentially applicable fidelity bonds issued to CV Brokerage, Inc. by American International Group, Inc. (“AIG”) during the relevant time periods. The Receiver submitted claims under the fidelity bonds. AIG has not yet set forth its position with regard to these claims, but has confirmed receipt.

## **H. Document Review and Investigation**

The Receiver, through Counsel and/or his Accountants, where appropriate, has completed review of the documents, both in paper and electronic form, retrieved from Smith's apartment and Four Falls office space. The Receiver, his Counsel and Accountants have also reviewed copious amounts of data and documents produced by third parties to whom document and information requests were directed, including, *inter alia*, several banks, attorneys, and other individuals who appear to have been recipients of Receivership Assets, who have had dealings with Smith and/or the Receivership Parties, or who may otherwise possess valuable information in this regard. They are in the process of processing and reviewing data obtained from a back-up server and a cloud-based storage device, now that the Receiver's Motion for Approval of the Receiver's Proposed Protocol for Review of Electronic Data has been approved. (Dkt. No. 72).

The Receiver and his Counsel, with the assistance of the Accountants, are in the process of issuing subpoenas and clawback demands to various individuals and/or entities who appear to possess additional relevant information and/or who were recipients of substantial amounts of Receivership Assets for purposes which are either not yet clear, or appear to have been improper. This process began during this quarter, and has required detailed forensic analysis by the Accountants with regard to each recipient of funds, to support the Receiver's requests. This

forensic investigation will be useful going forward, to support additional demands for return of funds and/or future litigation, where warranted.

### **I. Interviews**

In addition to conversations with counsel for numerous individuals with whom interviews will soon be requested once additional documents are received and reviewed, the Receiver and his Counsel interviewed Brenda Smith's sister, Linda Smith, on March 11, 2021.

The Receiver has also reiterated his request for an interview with Brenda Smith. This request has been complicated by the fact that Smith is not represented in connection with this action. On March 24, 2021, Brenda Smith authored a letter to the Receiver's Counsel in response to this request. In that letter, she requested legal representation, since her public defender's representation does not extend to any civil matters, and requested that her representation be paid for with Receivership Assets. The Receiver has not yet responded to this request, but is mindful of the fact that the Receivership Order provides that "[t]his Order . . . does not dismiss Defendants' attorneys, if any, who file an appearance in this action, nor does it authorize any payments to any such attorneys from assets of the Receivership Parties." (Dkt. No. 22, ¶ 8).

On April 22, 2021, the United States filed a Motion to Stay this matter until the conclusion of criminal proceedings in *United States v. Brenda Smith*, Crim. No.



20-475 (MCA), including trial. (Dkt. No. 78). Although the proposed order provides that all powers granted to the Receiver shall otherwise remain in full force and effect, if granted, this would likely prevent the Receiver from interviewing or deposing Smith.

**J. Communications with Creditors, Investors, Debtors and Claimants**

Counsel for the Receiver, as well as paralegal staff, where appropriate, have had numerous communications with various creditors, investors, debtors and claimants, largely through their counsel. Counsel has directed any known investors to complete the investor questionnaire on the Receivership website, and has also advised known and potential creditors of the creditor claim form on the website, which is located at <http://broadreachreceiver.com/index.html>. The Receiver is in the process of identifying and getting notices out to additional investors whose information is becoming available through record review of materials on the back-up server. Of note, the vast majority of investors to whom the investor questionnaire has been sent have not completed it, making the forensic reconstruction far more time consuming than is typical.

Counsel has communicated with numerous attorneys representing plaintiffs and/or co-defendants in related actions, particularly with regard to the stay and whether or not it should be lifted in connection with certain actions. The Receiver

has maintained the position that claims against Brenda Smith and/or any Receivership Party must remain stayed.

The Receiver and his Counsel maintained regular contact with counsel for Spouting Rock with regard to the repayment of a \$1.5 million loan, plus interest, due and owing to Defendant, Broad Reach Capital, LP, which was the subject of the Interpleader Complaint filed by Spouting Rock in the United States District Court for the District of New Jersey. *See Spouting Rock Holdings, LLC v. Broad Reach Capital, LP, et al.*, Civ. No. 20-cv-02498. Spouting Rock made final payment on the loan, plus interest, on January 29, 2021. In total, as a result of the Receiver's demands for payment of principal and interest, Spouting Rock paid back a total of \$2,149,634.00 to the Receiver.

#### **K. Investigation and Development of Potential Claims**

The Receiver and his Counsel, with the assistance of the Accountants, have spent significant time this quarter researching, investigating, analyzing and developing theories for potential claims that the Receiver may seek permission to institute in the near future.

The Receiver already filed his first Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate on February 9, 2021. (Dkt. No. 49). Prior to the filing of that Motion, the Receiver conducted significant factual, legal, and cost-benefit analyses with regard to those potential claims. The Receiver has

begun making preparations for filing suit while he awaits the court's approval, and has been engaging in discussions with counsel for some of the target defendants identified in that Motion.

The Receiver has begun the process of sending demands to net-winner investors, and is in the process of developing and sending demands to other potential fraudulent transfer recipients. This process will likely continue through the next several quarters of the Receivership. If and when the Receiver determines, in consultation with counsel for the SEC, that other claims are worthy of pursuit, the Receiver will file additional motions for permission to initiate litigation against those individuals and/or entities.

#### **L. Analysis of Frozen Contested Accounts**

The Receiver has been in communication with individuals claiming entitlement to funds held in certain disputed frozen accounts with PNC, and the Accountants have been conducting forensic analyses for the purpose of evaluating these claims. The Receiver has communicated with counsel for Anthony Scott Koppenheffer, who claims ownership interest in the frozen Taylor Trading account, and, with the assistance of his Accountants, has determined that the funds in that account rightfully belong to the Receivership. He filed a motion to determine ownership of the Taylor Trading account on April 9, 2021. (Dkt. No. 76). The Receiver has also engaged in numerous conversations with Sebastian

Rybicki, who claims ownership of the Rybicki Capital Partners PNC account. He has provided certain documentation, which the Accountants are in the process of reviewing. Forensic review regarding the Awooton Consulting account is likewise continuing.

**M. Accounting Activities**

The Receiver's Accountants at Alvarez and Marsal have performed significant work in support of the Receiver's efforts. In addition to what has been identified above, this accounting work generally includes, but is not limited to, the following:

The Accountants have been working to reconstruct financial accounts in order to determine investor capital account activity and identify third-party recipients of investor funds. They are reconstructing accounts held by Receivership Parties, while performing targeted review of other accounts held or controlled by Smith. To date, they have identified over eighty (80) bank accounts controlled by Smith for sixty (60) entities covering 2007 to 2019, and have reconstructed fourteen (14) of these accounts for the period of 2015 to 2019, with gross activity totaling approximately \$1.6 billion.

The Accountants have also been working on reconstruction of investor capital accounts, in order to determine the net position of investors, identify potential claw-back claims, and validate investor claims. They have completed

their preliminary analyses with regard to net winner investors, which has provided support to the Receiver in preparing, and continuing to prepare, demands for the return of net winnings.

The Accountants have also been conducting investigations in order to determine the nature and amounts of transactions with third-party recipients of investor funds, in order to support the Receiver's efforts to pursue potential fraudulent transfer claims.

Additionally, Alvarez and Marsal is handling the tax returns and other tax-related issues for the Receivership Estate. Specifically, the Receiver has asked the Accountants to prepare appropriate tax returns and request extensions for the filing of Receivership returns, begin discussions with the IRS about negating or minimizing tax liabilities, and to prepare a plan for the ultimate dissolution of most, if not all, of the Receivership Parties, which will require tax clearance certificates from the relevant state authorities.

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

Over the course of the Receivership, the Receiver has consolidated Receivership Assets from bank accounts held with ICBCFS, PNC, Citizens Bank, and B1 Bank, as well as the proceeds from the sales of Receivership stock holdings in Palantir, Tremor International Ltd., and Greenbriar Capital Corp into the Receivership Account. Additionally, the Receiver received three payments from

Spouting Rock on a secured promissory note, the majority of which was paid during this quarter. As of the close of the quarter, total cash on hand was \$7,484,425.87,<sup>7</sup> an increase of 435% from the close of the prior quarter.<sup>8</sup>

Additional potential assets include in excess of \$700,000.00 of contested funds in frozen accounts for which forensic review is continuing. The Receiver has already filed a motion to determine ownership of one of these accounts after the close of the quarter. The Receiver also believes that additional funds may be held with other banks, most of which are overseas, and the Receiver will take steps to repatriate those funds where practical. The Receiver continues his investigation and collection efforts in this regard, which may ultimately require the retention of local counsel for the purpose of domesticating the Receivership Order in other countries. Any such action, however, would be subject to a cost-benefit analysis with regard to the estimated value of anticipated assets and the projected costs involved in securing same. The Receiver has been in the process of attempting to obtain Brenda Smith's assistance and cooperation with turning over signatory

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<sup>7</sup> Given that the Receiver's First Interim Fee Application was approved after the close of the quarter on April 5, 2021, this balance does not reflect payments made to the Receiver or his Accountant pursuant to the Order Approving the Receiver's First Interim Fee Application. (Dkt. No. 70). Payments made pursuant to that Order reduced the balance in the Receivership Account by \$182,218.04 after the close of the quarter.

<sup>8</sup> This includes an additional \$1.11 in accrued interest remaining in the Raymond James brokerage account, which the Receiver transferred into the Receivership Account after the close of the quarter.

authority to the Receiver for overseas accounts over which she possesses access and control; however, to date that has not occurred.

The Receiver hopes that there will be significant increases in the cash available in the coming months through the sale of Receivership property. The Receiver is in the process of attempting to liquidate numerous assets, including the Tangipahoa Properties, Smith's vehicle, and personal property at Smith's Rittenhouse Apartment. The Receiver is actively attempting to identify, locate and secure additional Receivership stock holdings for liquidation. The sale of stock holdings was previously approved by this Court by Order dated September 28, 2020, (Dkt. No. 39), and the Receiver has filed Motions seeking authority to sell, or begin the process of selling, the remaining assets.

On April 5, 2021, this Court granted the Receiver's Motion for Appointment of Real Property Appraisers and Approval to Retain Realtor, which will allow the Receiver to begin the process of selling the Tangipahoa properties. (Dkt. No. 71). Based upon information currently available, the Receiver believes that the sale of the Tangipahoa Properties will result in a significant return to the Receivership Estate, even with the payoff of the mortgage on the property owned by BD of Louisiana. Additionally, based upon the condition of Smith's vehicle and its low mileage, the Receiver is hopeful that its sale will generate at least \$20,000.00 for the Receivership Estate, assuming there isn't a need for significant mechanical

repairs. While Smith's belongings in her Rittenhouse Apartment are not likely to generate significant cash, they serve no benefit to the Receivership Estate currently, and will require the expenditure of storage costs if not sold.

The Receivership has incurred total administrative expenses of \$26,356.03 through the close of this quarter. Administrative expenditures from the Receivership Account during this quarter include (a) payment of \$6,858.13 to Byrne & Partners, for advice and counsel with regard to ownership and control of Receivership Party CV International Investments Limited, as discussed further above; and (b) payment of \$1,880.00 to the Citadel Agency, a private investigation company retained for factual investigation concerning Jordan Denise, who is a target defendant in one of the lawsuits the Receiver has requested permission to file and appears to operate under several aliases. Prior administrative expenses from the Receivership Account were reported on the Receiver's Second Quarterly Status Report.

Additionally, a total of \$10,123.80 has been paid to Raymond James for commissions and fees in connection with the sale of Receivership stock holdings, broken down as follows: \$1,467.96 in commissions and \$19.51 in fees during the prior quarter, and \$8,061.96 in commissions and \$574.37 in fees during this quarter. These fees and commissions were withdrawn from the gross sale proceeds



of Receivership stock holdings before the funds were transferred to the Receivership Account.

#### **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".

This schedule of receipts and disbursements does not include receipts and disbursements since the end of this quarter, including, *inter alia*, payments made pursuant to the Order Approving the Receiver's First Interim Fee Application for the Period June 29, 2020 through September 30, 2020. Rather, post-quarter receipts and disbursements from the Receivership Account will be reflected in the Receiver's next quarterly status report and accompanying SFAR.

#### **V. RECEIVERSHIP ASSETS**

While the Receiver is continuing his investigation and efforts to uncover additional assets, confirmed Receivership Assets remain limited, in comparison to the vast liabilities the Receivership Entities face, including the \$63+ million owed back to defrauded investors. However, the Receivership experienced substantial financial growth during this quarter.

##### **A. Receivership Bank Account**

As of the close of the quarter on March 31, 2021, the balance of the Receivership Account was \$7,484,424.76. An additional \$1.11 in accrued interest also remained in the Raymond James brokerage account, which the Receiver transferred to the Receivership Account after the close of the quarter. Thus, total cash at the close of the quarter was \$7,484,425.87, an increase of 435% from the end of the prior quarter.

## **B. Stock Holdings**

The Receiver confirmed the existence of the following Receivership stock holdings, and sold them:

- 180,000 shares in Palantir Technologies held by PriCo Market, LLC. These shares have all been sold, for total gross proceeds of \$4,459,330.80. After payment of fees and commissions, net proceeds totaled \$4,450,580.34.
- 50,000 shares in Greenbriar Capital Corp held by CV Brokerage. These shares have been sold, for total gross proceeds of \$63,370.00. After payment of fees and commissions, net proceeds totaled \$62,030.68.
- 932 shares of Tremor Int Ltd held by CV Brokerage. These shares have been sold, for total gross proceeds of \$4,466.80. After payment of fees and commissions, net proceeds totaled \$4,432.78.

An additional \$5.67 of interest was earned on the net proceeds of these sales prior to transfer to the Receivership Account.<sup>9</sup>

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<sup>9</sup> \$1.11 of this accrued interest was transferred to the Receivership Account after the close of the quarter.

Additionally, the Receiver and his Counsel have confirmed that most, if not all, of Prico Market LLC's 30,000 shares in Lyft were transferred at the expiration of the shares' lock-up period on August 19, 2019. The Receiver is in the process of seeking the return of these shares. The Receiver is also continuing his investigation regarding other potential stock holdings, including, *inter alia*, Facebook.

**C. Spouting Rock Receivable**

As outlined above, the Receiver has recovered the principal and interest owed on a secured promissory note from Spouting Rock, totaling \$2,149,634.00.

**D. Louisiana Properties**

The Receiver has located four (4) parcels of land in Tangipahoa Parish, Louisiana, which make up two properties which are part of the Receivership Estate, as follows:

- **BD of Louisiana Property**
  - Assessment No. 3418405, Davis Road
  - Assessment No. 4104900, Adams Road
  
- **Smith Property**
  - Assessment No. 5615305, 17091 Highway 1064 East
  - Assessment No. 6157491

Both the BD of Louisiana Property and Smith Property consist of the two contiguous land parcels identified above. The BD of Louisiana Property appears to consist of undeveloped raw land, while there appears to be a home or similar structure on the Smith Property, as well as a registered mailing address.

The BD of Louisiana Property was purchased in or around 2008. A 2017 appraisal valued the property at in excess of \$1 million; however, the property will need to be valued by three court-appointed appraisers before it can be sold pursuant to 28 U.S.C. § 2001(b). The property is subject to a mortgage from B1 Bank, which had a maturity date of June 25, 2019 and continues to accrue interest. The principal amount of the mortgage is approximately \$345,000.00, and accrued interest through December 2, 2020 was approximately \$35,000.00. It is the Receiver's understanding that the Smith Property is not subject to a mortgage.

Now that this Court has granted the Receiver's Motion for Appointment of Real Property Appraisers and Approval to Retain Realtor (Dkt. No. 71), the Receiver will work to secure and gain access to the properties, with the assistance of his broker and local law enforcement, and will make arrangements for the appraisal of these properties in the near future. The Receiver anticipates having significant updates regarding the Louisiana Properties during the next few months, and is hopeful that the sale of these properties will generate significant proceeds to benefit the Receivership Estate.

**E. Additional Bank Accounts and Funds**

It is estimated that there is in excess of \$700,000.00 in frozen, contested accounts in the name of Awooton Consulting, Rybicki Capital Partners LLC and Taylor Trading LLC. As discussed above, the Receiver has filed a Motion to

Determine Ownership of the Taylor Trading account, while forensic analysis and investigation is ongoing with regard to the others in order to ascertain whether these funds rightfully belong to the Receivership Estate.

As discussed in the Receiver's First Interim Fee Application, ICBCFS holds two additional accounts that are purported to be clearing accounts for CV Brokerage, containing \$444,213.08, which funds have not been turned over to the Receiver, as ICBCFS is claiming that it has a perfected lien in connection with indemnification claims that exceed this balance. Pursuant to the Stipulation to Resolve ICBCFS' Motion to Amend the Amended Order Appointing Receiver, ICBCFS is entitled to maintain possession of the balance in these accounts until (i) the amount and priority of the ICBCFS Claim, (ii) the validity and priority of ICBCFS's lien on the balance and (iii) ICBCFS's right to set off the balance against the allowed ICBCFS Claim are determined by entry of a final order of the Court. ICBCFS is otherwise bound to comply with all other terms of the Receivership Order. (Dkt. No. 30).

Cidel Bank in Barbados has confirmed that it holds under \$13,000.00 in Receivership Assets in an account held by CV International Investments. However, thus far, the Receiver has been advised that he must retain local counsel in order to get the Receivership recognized and get access to these funds. The Receiver believes that additional funds may be held in other overseas banking institutions,

but is getting minimal cooperation from banks outside the jurisdiction of the United States Courts. The Receiver is investigating and contemplating all reasonable and cost-effective options for gaining easier access to overseas funds.

The Receiver continues to investigate the potential existence of additional accounts, with the assistance of his Accountants.

**F. Additional Business Entities**

Based upon extensive documentation and data that has been collected by the Receiver from various sources, it is believed that Brenda Smith and/or the Receivership Entities may have an ownership interest in other overseas and/or domestic entities that are not currently part of the Receivership Estate. The Receiver is continuing to investigate the existence, and value of, Brenda Smith's other potential ownership interests and/or other entities which should be added as additional parties to the Receivership.

**G. Vehicle**

The Receiver has taken possession of Brenda Smith's 2017 Infiniti QX70. Based upon its condition and low mileage, the Receiver believes, based upon his initial evaluation, that the vehicle is worth in excess of \$20,000.00, assuming it does not require significant mechanical repair. The Receiver has filed a motion seeking, *inter alia*, permission to sell Smith's vehicle, which has not yet been decided. (Dkt. No. 47)

## **H. Magnetite**

Based upon his investigation, the Receiver believes that Brenda Smith is no longer in possession of any magnetite concentrate. The Receiver believes that the magnetite owned by Smith has since been sold or disposed of by third parties. The Receiver is evaluating potential claims in connection with the disposition of this property, for which Smith paid substantial funds.

## **I. Personal Property**

An auction company has evaluated and is willing to auction off a majority of the personal property found in Smith's apartment, including furniture, clothing, jewelry, rugs, and other miscellaneous items; however, with the exception of a few potentially valuable rugs, which may be separately sold, the sale of these items is unlikely to generate significant proceeds for the Receivership Estate. Nonetheless, since the property has been removed and placed into storage, and will soon accumulate storage fees, the Receiver believes it is in the best interest of the Receivership Estate to liquidate this property as quickly as possible, and has filed a Motion seeking approval to do so. (Dkt. No. 47). Before the property is sold, Smith will be given the opportunity to have someone retrieve personal and/or sentimental items without significant resale value. Administrative staff at Conrad O'Brien is coordinating and managing these efforts, without charge to the Receivership Estate.

## **J. Server Equipment**

The Receiver is considering the sale of server equipment retrieved from a data center which is now in the possession of the SEC. The equipment was sent to the SEC for data extraction and retrieval, but to date has not yielded usable data.<sup>10</sup> If and when the Receiver determines that the sale of this equipment is feasible and appropriate, he will seek necessary permission from the Court.

## **K. Insurance**

As set forth above, the Receiver has discovered fidelity bonds issued by AIG to CV Brokerage. These bonds provide limited coverage, with limits of liability of \$120,000.00 and a sizeable deductible. It is not yet known whether AIG will accept or attempt to deny the claims.

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<sup>10</sup> As previously noted, the following equipment was retrieved:

- Cisco ASA 5525-x, quantity 2
- Cisco 3750 PoE 48, quantity 1
- QNAP Storage Device, quantity 1
- Dell Server, ST 8MZTLM1
- HP DL360 Gen9 S/N MXQ629093R
- HP DL360 Gen9 S/N MXQ629092R
- Cisco Nexus 3548P, quantity 2
- QNAP Model TS-EC1280U-RP
- Cisco UCS-FI-6332, quantity 2
- Cisco UCS 5108 S/N FOX2023GE8F
- Pure Storage Flash Array, quantity 1



The Receiver will continue to investigate and pursue any other leads he receives with regard to other potentially applicable insurance coverage and/or fidelity bonds.

## **VI. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY RECEIVERSHIP ESTATE**

The Receiver believes that the Receivership holds viable claw-back claims against certain net winner investors and/or individuals and entities that received gifts, donations, or other fraudulent transfers from Smith or other Receivership Parties. There may also be claims for breach of contract, unjust enrichment, negligence and/or intentional tort claims against certain individuals and/or entities. As discussed above, the Receiver and his Accountants are actively investigating and developing support for all such claims.

On February 9, 2021, the Receiver filed a Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate. (Dkt. No. 49). Those potential claims have already been researched and investigated by the Receiver and his Counsel. The proposed defendants and factual basis for those claims are set forth in the Receiver's Motion. The Receiver anticipates that he will identify additional parties against whom claims should be brought in the near future. When the Receiver determines, in consultation with the SEC, that the pursuit of any such claims will be financially beneficial for the Receivership Estate, he will seek appropriate court approval to proceed with litigation.

## **VII. CREDITORS**

As discussed above, ICBCFS claims that it has indemnification claims worth in excess of the \$444,213.08 in withheld funds held in the CV Brokerage clearing deposit account(s), primarily in connection with its defense of two FINRA arbitration actions in which it was named alongside Smith and/or CV Brokerage, which are discussed further below. Those arbitrations have not yet concluded, and the viability and extent of ICBCFS' claims have not yet been determined. ICBCFS has produced numerous documents in connection with their claims, which will likely need to be supplemented to allow for a full and final assessment.

As discussed in the Receiver's Initial Preservation Plan, Southern Minerals Group, LLC ("SMG") pursued an arbitration action against CV Investments LLC (CVI) in connection with its purported breach of a Magnetite Concentrates Purchase and Sale Agreement ("PSA"), under which CVI was to purchase up to 400,000 tons of magnetite concentrate for the price of \$80.00 per ton, with a minimum monthly purchase of 4,000 tons. Upon information and belief, CVI did not actually receive any magnetite for which it failed to pay; rather, it failed to purchase the full amount of magnetite required by the PSA. It is further believed that some of the magnetite paid for by CVI was retained by SMG.

On May 29, 2020, the Arbitrator in that matter entered an award against CVI and in favor of SMG on all claims, and awarded damages and costs as follows:

\$4,215,000 in liquidated damages as of March 1, 2020, \$14,080,599 in lost profits, \$3,600,000 in punitive damages, \$23,660 in arbitration costs, prejudgment and post-judgment interest of 15% on all liquidated damages, and post-judgment interest of 15% on all other damages and costs. On June 5, 2020, Counsel for SMG filed a Petition for Order Confirming Arbitration Award in the District Court for the Eastern District of Pennsylvania in *Southern Minerals Group, LLC v. CV Investments LLC*, No. 2:20-cv-02643. On August 4, 2020, the Receiver, through Counsel, filed a Notice of Stay in that action, attaching a copy of this Court's June 29, 2020 Receivership Order.

The Receiver set forth his understanding of the procedural history of that arbitration in his Initial Preservation Plan, which SMG is disputing, as evidenced by a status letter filed by Counsel for SMG in this matter on September 23, 2020. The Receiver has taken note of SMG's position and will take it under consideration in recommending a claims procedure to the Court at the appropriate time, when the Receivership has marshaled sufficient assets for a meaningful distribution.

Also proceeding in the District Court for the Eastern District of Pennsylvania is the matter of *Surefire Dividend Capture, LP v. Smith et al.*, No. 2:19-cv-04088, against Smith and numerous other Receivership Entities, as well as non-Receivership parties ("*Surefire* litigation"). Pursuant to the June 29, 2020 Receivership Order, the claims against Smith and all Receivership Entities were

stayed, with a carve-out allowing the other claims against third parties in both that and a pending arbitration matter—*Surefire Dividend Capture, LP v. Broad Reach Capital, LP, Broad Reach Capital, LLC, Bristol Advisors, LLC and Brenda Smith*, JAMS Demand for Arbitration, Index No. 1450006353—to proceed, subject to certain conditions. However, on July 21, 2020, the *Surefire* litigation was temporarily stayed in its entirety, following the submission of briefs by the parties addressing the effect of the stay in this matter on that litigation. As noted, on February 9, 2021, the Receiver filed a Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate against, *inter alia*, Nottingham and Sanville, in which the Receiver sought permission to bring claims against these entities in the pending *Surefire* litigation, given significant factual overlap and the reduced litigation costs and attorneys’ fees expected to result from this strategy. (Dkt. No. 49). The Plaintiff in the *Surefire* litigation then filed a Motion to Lift the Stay on February 10, 2021, in light of the Receiver’s Motion for Permission to Initiate Litigation.

There is another matter proceeding in the Superior Court of the State of California against numerous Receivership and non-Receivership entities, in *Innovative Fund I, L.P. v. Heckler et al.*, No. 30-2019-01053812-CU-FR-CJC (Ca. Super. Orange Cty.). TA1, LLC was one of the original named defendants in that matter when it was originally filed on July 30, 2019. On or about September 25,

2019, after Smith's arrest, the Complaint was amended to name Smith and Broad Reach Capital, LP, as well as CV Fund Administration, LLC as additional defendants. On February 4, 2020, the plaintiff in that matter requested an entry of default against these defendants. Smith thereafter attempted to file an answer, which was rejected, but her request for waiver of court fees was granted on May 28, 2020. The Plaintiff in that matter filed a notice of the Receivership Order and resulting stay on July 28, 2020.

Another civil action was initiated against Brenda Smith, as well as CV Fund Partners LLC, CV Special Opportunity Fund LP, and George Heckler in the Court of Common Pleas of Montgomery County on or about July 8, 2020, in the matter of *Williams v. Smith, et al.*, No. 2020-11338. The matter was initiated by the filing of a writ of summons. On or about February 18, 2021, the plaintiff in that action, Vivian Williams, filed a Petition for Relief from Stay in this action, seeking permission to proceed with her lawsuit. (Dkt. No. 56). After numerous communications regarding the Petition, Counsel for the Receiver and counsel for the SEC advised Ms. Williams' counsel that they had no objection to the case continuing as to non-Receivership defendants, so long as the claims against Brenda Smith remain stayed. Based on these conversations, on February 26, 2021, counsel for Ms. Williams withdrew the Petition for Relief from Stay. (Dkt. No. 57). Ms. Williams had previously filed a Petition to Attach this Court's June 29, 2020 Order

Appointing Receiver in the Montgomery County action on February 11, 2021. On March 24, 2021, Ms. Williams filed a Motion for Leave to Proceed Against All Defendant Except Brenda Smith in that action, in accordance with the Receivership Order and her agreement with the SEC and the Receiver.

Additionally, a complaint was filed against Brenda Smith in the Montgomery County Court of Common Pleas on December 28, 2020, in the matter of *Bank of America v. Smith*, No. 2020-21298. The Receiver understands that this matter relates to the collection of credit card debt. The Receiver and his Counsel notified the attorney for Bank of America of the Receivership Order and stay of litigation, and there has been no further activity on the docket since that time.

In addition to the above proceedings, the Receiver is aware of at least two pending FINRA arbitrations, including *Alpha Capital Trading Group, LLC v. CV Brokerage, Inc. et al.*, (FINRA Arbitration No. 19-03157) and *Jeffrey Bydalek v. Brenda Smith and CV Brokerage et al.* (FINRA Arbitration No. 18-03955). These matters have both been stayed. The Receiver is aware of the nature and amount of the various alleged claims and counterclaims involved in these arbitrations, and intends to further evaluate these claims in connection with creditor claim proceedings.

The Receiver believes that there may be other pending actions and/or judgments against Smith and/or other Receivership Parties. The Receiver will seek

to stay any such pending actions of which he becomes aware, in accordance with the June 29, 2020 Receivership Order.

### **VIII. STATUS OF CREDITOR CLAIMS PROCEEDINGS**

In anticipation of numerous creditor claims against the Receivership Estate, the Receiver has created a creditor claim form to document all such claims being made against the Estate. The creditor claim form has been published on the Receiver's website, at <http://broadreachreceiver.com/index.html>, and the Receiver is in the process of notifying known and potential creditors to visit the site to complete claim forms.

The Receiver has been made aware of several claims against the Receivership Estate, as outlined above, which he is in the process of evaluating. However, it is believed that there remain additional creditors about which the Receiver is not yet aware, and the Receiver's team continues its review of substantial records and documents, and anticipates that additional fact investigation may lead to the identification of additional creditors.

As set forth above, the Receiver's primary focus, at this time, is locating and securing tangible Receivership Assets and engaging in activities that will be most likely to generate proceeds for the Receivership Estate. Because the Receiver is still in the process of securing material funds for the Receivership Account, the Receiver has deferred developing a claims determination and distribution process.

When appropriate, the Receiver will formulate a claims procedure for review and approval by the Court.

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

The Receiver recommends the continuation of the Receivership at this time. The Receiver anticipates bringing in significant additional funds in the near-term, through the sale of additional Receivership Assets. The Receiver is also preparing to initiate litigation on behalf of the Receivership Estate, and is actively identifying, considering, evaluating and investigating other potential claims that can be brought on behalf of the Receivership Estate in the near future. At this time, given the ongoing nature of the Receiver's investigation, the Receiver does not have a projected date by which he expects the Receivership to close.

**X. CONCLUSION**

The Receiver, Kevin D. Kent, Esq., hereby respectfully submits this Third Quarterly Status Report for the Court's review and consideration. The Receiver anticipates providing additional informational updates in subsequent quarterly status reports, as additional assets and/or liabilities are identified.

Respectfully Submitted,

Date: 4/30/2021

*s/ Robin S. Weiss*

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# **EXHIBIT “A”**

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# STANDARDIZED FUND ACCOUNTING REPORT

CIVIL – RECEIVERSHIP FUND

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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 01/01/2021 TO 03/31/2021

**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 01/01/2021 TO 03/31/2021

FUND ACCOUNTING (See Instructions):		Current Reporting Period - 01/01/21 to 03/31/21			06/29/20 - 03/31/21
		Detail	Subtotal	Period Total	Case to Date
Line 1	Beginning Balance (As of 01/01/21)			\$ 1,397,707.24	\$ -
	<b>Increases in Fund Balance:</b>				
Line 2	Business Income			-	-
Line 3	Cash and Securities			6,105,574.89	7,510,076.23
Line 4	Interest/Dividend Income			5.67	5.67
Line 5	Business Asset Liquidation			-	700.00
Line 6	Personal Asset Liquidation			-	-
Line 7	Third-Party Litigation Income			-	-
Line 8	Miscellaneous - Other			-	-
	<b>Total Funds Available (Lines 1 – 8):</b>			\$ 7,503,287.80	\$ 7,510,781.90
	<b>Decreases in Fund Balance:</b>				
Line 9	Disbursements to Investors/Claimants			-	-
Line 10	Disbursements for Receivership Operations			18,861.93	26,356.03
Line 10a	Disbursements to Receiver or Other Professionals			18,861.93	-
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			-	-
	Total Third-Party Litigation Expenses			-	-
Line 10f	Tax Administrator Fees and Bonds			-	-
Line 10g	Federal and State Tax Payments			-	-
	<b>Total Disbursements for Receivership Operations</b>			\$ 18,861.93	\$ 26,356.03
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			-	-
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			-	-
	<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>			\$ 18,861.93	\$ 26,356.03
Line 13	Ending Balance (As of 03/31/21):			\$ 7,484,425.87	\$ 7,484,425.87
Line 14	Ending Balance of Fund – Net Assets:				
Line 14a	Cash & Cash Equivalents			7,484,425.87	7,484,425.87
Line 14b	Investments			-	-
Line 14c	Other Assets or Uncleared Funds			-	-
	<b>Total Ending Balance of Fund – Net Assets</b>			\$ 7,484,425.87	\$ 7,484,425.87

[1],[2]  
[2]

[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 01/01/2021 TO 03/31/2021**

OTHER SUPPLEMENTAL INFORMATION:		Current Reporting Period - 01/01/21 to 03/31/21			06/29/20 - 03/31/21
		Detail	Subtotal	Period Total	Case to Date
<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:			-	-
	Fund Administrator			-	-
	IDC			-	-
	Distribution Agent			-	-
	Consultants			-	-
	Legal Advisers			-	-
	Tax Advisers			-	-
	2. Administrative Expenses			-	-
	3. Miscellaneous			-	-
	<b>Total Plan Development Expenses Not Paid by the Fund</b>			\$ -	-
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>				
	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			-	-
	<b>Total Plan Implementation Expenses Not Paid by the Fund</b>			\$ -	-
<i>Line 15c</i>	<i>Tax Administrator Fees &amp; Bonds Not Paid by the Fund</i>			-	-
<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>				-
<i>Line 18b</i>	<i># of Claims Received Since Inception of Fund</i>				-
<b>Line 19</b>	<b>No. of Claimants/Investors:</b>				
<i>Line 19a</i>	<i># of Claimants/Investors Paid This Reporting Period</i>				-
<i>Line 19b</i>	<i># of Claimants/Investors Paid Since Inception of Fund</i>				-

**Notes**

- [1] Stock sale proceeds were reported net of commissions and fees on the Standardized Fund Accounting Report for the period 10/01/2020 – 12/31/2020. The amounts reported on Line 3 (Cash and Securities) and Line 10a (Disbursements to Receiver or Other Professionals) for the current period include an adjustment of \$1,487.47 to reflect total gross stock sale proceeds and brokerage fees paid in the Case to Date.
- [2] Stock sale proceeds were reported on the Standardized Fund Accounting Report for the period 10/01/2020 – 12/31/2020 inclusive of interest income earned prior to transferring the proceeds to the Receiver's checking account. The amounts reported on Line 3 (Cash and Securities) and Line 4 (Interest/Dividend Income) for the current period include an adjustment of \$0.18 to reflect total gross stock sale proceeds and interest income in the Case to Date.

Receiver:

By: Kevin Dooley Kent  
 (signature)

Kevin Dooley Kent  
 (printed name)

Receiver  
 (title)

Date: April 26, 2021

**NOTES TO THE STANDARDIZED FUND ACCOUNTING REPORT**

**Receivership Cash Accounts**

As of March 31, 2021, the Receiver's cash balance totaled \$7,484,425.87. A checking account at Bank of America held a balance of \$7,484,424.76 and a brokerage account at Raymond James held an additional \$1.11.

**Investments, Real and Personal Property**

The Receiver is in the process of identifying and liquidating all of the investments, real and personal property of the Receivership Parties.

In addition to the transactions reflected within the Standardized Fund Accounting Report, the Receivership has an interest in four parcels in Tangipahoa Parish, Louisiana. The Receiver is in the process of determining the value of these properties.

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

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**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

v.

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

**Defendants.**

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

**CERTIFICATE OF  
SERVICE**

I hereby certify, this 30<sup>th</sup> day of April, 2021, that I caused to be served a true and correct copy of the Receiver Kevin D. Kent's Third 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  
Permanent ID 2019-339640  
CCIS# 07-571432  
U.S. Marshalls Number 72832-050  
Essex County Correctional Facility  
354 Doremus Avenue  
Newark, NJ 07105

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