

**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 FIFTH 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. (Dkt. No. 22). The Receiver hereby submits this Fifth 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

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. (Dkt. 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, in the matter of *USA v. Smith*, No. 2:20-cr-00475-MCA (D.N.J.) on September 9, 2021.

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 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 Investments, LLC,¹ Investment Consulting LLC, and Tempo Resources LLC (hereinafter “Receivership Assets” or “Receivership Estate”). Receivership Order, Whereas ¶ 3; ¶¶ 1–3, 5 (Dkt. No. 22).

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 currently known Receivership Assets, and the extent and nature of known liabilities. 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. The Receiver and his Counsel have continued to focus their efforts on locating, marshaling, and preserving Receivership Assets; selling and liquidating Receivership Assets and taking actions

¹ Upon motion of the Receiver (Dkt. No. 95), the Receivership Order was amended *nunc pro tunc* on June 24, 2021, to correct the name of Receivership Party Elm Street Investors, LLC to Elm Street Investments, LLC. (Dkt. No. 96).

necessary to prepare for and/or effectuate such sales; continuing document review and investigation; and investigating and now pursuing claims, either informally or through the initiation of litigation, against third parties, with the continuing objective of preserving assets and maximizing recovery for defrauded investors.

The Receiver has now secured the transfer of funds from all known and undisputed domestic bank accounts, completed the sale of confirmed stock held by the Receivership Parties—with the exception of the Lyft shares previously held by Receivership Party Prico Market, LLC, completed the sale of Brenda Smith's vehicle, has begun selling Smith's personal property collected from her Rittenhouse Apartment, collected the balance of funds owed on a secured promissory note, and received distributions on one of Brenda Smith's investments. Despite expenses incurred during this quarter, the Receivership still holds \$6,177,449.21 as of the close of this quarter.

It is anticipated that the balance in the Receivership Account will soon increase as a result of the sale of additional Receivership Property—including real property in Louisiana—and the settlement of various claims, two of which are pending before this Court for approval. Additionally, there remains over \$200,000.00 in frozen, contested bank accounts, and 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).

The Receiver has drafted a proposed claims determination process motion, and is in the process of consulting with the SEC regarding the procedures proposed therein. It is the Receiver's goal to file this motion as soon as possible. Disposition of this motion is among the necessary precursors to the filing of a proposed interim distribution motion. The operations of the Receiver are outlined in further depth below.

A. Litigation-Related Activities

The Receiver's recent litigation-related activities include the following:

i. Motion Practice

On July 19, 2021, the Receiver filed a Motion for Appointment of Replacement Real Property Appraisers after several appraisers initially appointed by the Court to appraise the Louisiana Properties declined the assignment. (Dkt. No. 106). That Motion was granted on August 20, 2021. (Dkt. No. 114).

On July 26, 2021, the Receiver filed a Motion for Protective Order and Approval of the Creation of a Document Repository for Third Party Access. (Dkt. No. 107). That Motion was granted on September 2, 2021. (Dkt. No. 118).

In addition to the above, the Receiver filed a letter with the Court on July 14, 2021, attaching two letters received from Brenda Smith regarding, *inter alia*, her

request to participate in depositions and obtain information. (Dkt. No. 105). A telephone conference was scheduled to take before the Honorable Edward S. Kiel to discuss Smith's letters on August 20, 2021. (Dkt. No. 111). During that conference, Smith reiterated her request for appointment of counsel. Following the conference, an Order was entered denying the relief requested in Smith's letter, and providing that Smith could submit a letter application for appointment of *pro bono* counsel to the Receiver. (Dkt. No. 114). The Receiver received and filed the application for appointment of *pro bono* counsel on August 27, 2021. (Dkt. No. 116). Both the Receiver and the Securities and Exchange Commission submitted responses to Smith's request on September 7, 2021. (Dkt. Nos. 119 & 120, respectively). Smith's request for appointment of *pro bono* counsel was denied on September 12, 2021. (Dkt. No. 22).

After the close of the quarter, on October 6, 2021, the Receiver filed a Motion to Approve a Settlement Resolving the Receiver's Claims Against BRFP. (Dkt. No. 126). The Receiver filed the exhibits to the Motion under seal (Dkt. No. 127), and, upon the filing of the Receiver's Motion to Seal (Dkt. No. 128), the Court entered an Order approving the sealing of those exhibits the following day. (Dkt. No. 129). On October 8, 2021, the Receiver filed a Motion to Approve a Settlement Resolving the Receiver's April 9, 2021 Motion to Determine Ownership of Taylor Trading, LLC Account (Dkt. No. 130).

ii. Lawsuits Filed on Behalf of the Receivership Estate

The Receiver's first Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate (Dkt. No. 49) was granted on August 31, 2021. (Dkt. No. 117). The Receiver's Second Motion to Initiate Litigation on Behalf of the Receivership Estate ("Second Motion to Initiate Litigation") (Dkt. No. 98), filed on June 29, 2021, remains pending as of the date of this filing and is ripe for determination.

As set forth in the Receiver's Fourth Quarterly Status Report, the Receiver filed three (3) lawsuits in the District Court for the District of New Jersey on June 29, 2021. A list of those lawsuits—all of which are being handled on a contingency fee basis—along with a description of their current status, is as follows:

- ***Kevin D. Kent, in his capacity as Receiver v. Emperor Global Enterprises LLP, EGE Limited, Michael P. Michael, and Georgia Iacovou, No. 2:21-cv-13099 (D.N.J.)***

The Receiver successfully effectuated service upon these defendants in the United Kingdom. Entries of Appearance on behalf of all defendants were filed just after the close of the quarter. (Dkt. No. 5, 6, 8). Defendants have been given an extension until December 24, 2021 to respond to the complaint (Dkt. No. 15); meanwhile, a settlement conference is scheduled to take place before the Honorable Edward S. Kiel on November 23, 2021. (Dkt. No. 17).

- ***Kevin D. Kent, in his capacity as Receiver v. Medical Consultants Instructional Training Center, Medical Construction Industrial Training Center, LLC d/b/a Medical Consultants Instructional Training Center, MCITC School of the Trades LLC d/b/a Medical Consultants Instructional Training Center, and Carol Johnston, No. 2:21-cv-13104 (D.N.J.)***

The Receiver obtained and filed signed waivers of service through counsel for these defendants. (Dkt. No. 4-7). On September 7, 2021, Defendants, Medical Construction Industrial Training Center, LLC and MCITC School of the Trades, LLC filed a Motion to Dismiss the Receiver's Complaint. (Dkt. No. 8). The Receiver filed an Amended Complaint on September 20, 2021. (Dkt. No. 9). On October 4, 2021, Defendants filed a Stipulation and Order granting Defendants until November 4, 2021 to file an answer to the amended complaint (Dkt No. 11), which was approved on October 5, 2021. (Dkt. No. 12).

- ***Kevin D. Kent, in his capacity as Receiver v. Richard C. Galvin, Galvin Investment Company, LLC a/k/a Galvin Investments Company LLC and Galvin Investments, LLC and Galvin Investment Group, Gilman Metals Company, LLC, Galvin Metals Company, LLC and RG Coastal LLC, No. 2:21-cv-13105 (D.N.J.)***

The Receiver obtained and filed sign waivers of service for all defendants in this case. (Dkt. No. 5 – 9). Counsel for the Receiver reached an agreement with Colorado counsel for defendants, granting them an extension to file a response to the Complaint within thirty (30) days of the entry of an Order on the Receiver's Second Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate.

Additionally, the Receiver filed a lawsuit against Agostinho Calcada in the United States District Court for the District of New Jersey on October 11, 2021, captioned as follows:

- ***Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada, 2:21-cv-18396 (D.N.J.)***

Depending upon when the Receiver's Second Motion to Initiate Litigation is adjudicated, the Receiver anticipates that he may need to file additional lawsuits against other prospective defendants prior to obtaining a ruling from this Court on

the Motion, where necessary to preclude certain arguable or purported statute of limitations defenses. Additionally, if and when the Receiver identifies additional claims that need to be pursued, the Receiver will seek appropriate approval from the Court to proceed with those claims, in accordance with the Receivership Order.

The Receiver is in the process of seeing if he can resolve his claims against Nottingham Company (“Nottingham”) and Sanville & Company (“Sanville”) before filing suit against them, and is preparing to initiate litigation against, *inter alia*, Jordan Denise and Entercore, Inc. pursuant to the Court’s Order.

B. Storage & Sale of Belongings, Professional Equipment and Data

The Receiver’s Motion for Permission to Sell Brenda Smith’s Vehicle and Personal Property at Smith’s Rittenhouse Apartment was granted on July 6, 2021. (Dkt. No. 102). Brenda Smith’s marketable personal property is being sold on a rolling basis by Stephenson’s Auction, and has generated \$7,407.60 in net proceeds to the Receivership through eight (8) public auctions so far,² after payment of storage and pick-up fees and commissions. Brenda Smith’s vehicle was sold for \$27,000.00 on September 2, 2021. The Receiver is continuing to investigate options for the sale of Smith’s potentially valuable rugs. The Receiver continues to store certain personal and/or sentimental items without significant

² Two of these auctions, which resulted in total net proceeds of \$606.40, took place after the close of the quarter.

resale value on behalf of Ms. Smith, and will make arrangements for pick-up of these items once the auction process has been completed.

Server equipment retrieved from the Equinix data center is now back in the possession of the Receiver, and the Receiver is exploring his options for the potential sale of this equipment. The Receiver also continues to hold and host substantial amounts of data secured from various sources with Alvarez & Marsal's in-house e-discovery vendor, which process is managed and coordinated by Alvarez & Marsal's Forensic Technology/Data Analysis Team.

On September 2, 2021, this Court entered an Order Approving Creation of Document Repository and Protective Order. (Dkt. No. 118). Alvarez and Marsal's Forensic Technology/Data Analysis Team is in the process of setting up and transferring non-privileged materials onto the repository, and has been working with Counsel to search for, identify and segregate confidential and/or privileged materials for exclusion from the portion of the repository that will be accessible to other interested parties.

C. Louisiana Properties

The Receiver controls 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”). The Receiver has secured liability insurance coverage on the Louisiana Properties.

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 Court then granted the Receiver’s July 19, 2021 Motion for Appointment of Replacement Appraisers (Dkt. No. 106) on August 20, 2021. (Dkt. No. 114).

Real estate agent, Godwyn & Stone Brokerage (“Godwyn & Stone”) listed the vacant BD of Louisiana Property for sale on or about August 26, 2021 for \$899,500.00.³ The Smith Property was listed for sale on or about October 18, 2021 for \$350,000.00. The Receiver is in the process of finalizing an Agreement of Sale on the Smith Property, subject to Court approval, and anticipates filing a motion for the confirmation and advertisement of the sale of the property in the near future. The BD of Louisiana Property listing remains active as of the date of this filing.

D. Bank Accounts and Records

Receivership funds currently remain in the centralized Receivership Account with Bank of America. As of September 30, 2021, the balance in the Receivership

³ The mortgaging bank is attempting to charge default interest at a rate of twenty-one percent (21%) on this property, and the Receiver had to retain local counsel specializing in commercial real estate in Louisiana during this quarter for the limited purpose of addressing this issue.

Account was \$6,177,449.21. The Receiver has received document productions from numerous domestic financial institutions.⁴

E. Brokerage Account and Liquidation of Stock Holdings

As outlined in the Receiver's prior status reports, the Receiver previously sold Receivership shares in Palantir Technologies, Tremor International Limited, and Greenbriar Capital Corp., which resulted in net proceeds of over \$4.5 million.

The Receiver has been working to locate and secure Prico Market, LLC's 30,000 Lyft shares, which are defined as a Receivership Asset under the Receivership Order. The Receiver recently learned that 25,000 of these shares were sold prior to the entry of the Receivership Order, which sale was initiated by an individual to whom the remaining 5,000 shares have been transferred. The Receiver has confirmed that the remaining 5,000 shares remain in this individual's possession.⁵ The Receiver is awaiting additional documentation and is actively working to determine appropriate next steps, which will likely require Court

⁴ To date, the only overseas account identified as potentially holding receivership assets is Cidel Bank in Barbados, which has represented that it holds less than \$13,000.00 in an account in the name of CV International Investments. The Receiver has been advised that he will need to retain local counsel to domesticate the Receivership Order and compel production of account documents and turnover of funds from that account, which the Receiver has not yet done out of concern that the costs and fees involved may exceed the funds left in the account.

⁵ The individual by whom the shares were sold, and to whom the remaining shares were transferred, maintains that the shares belong(ed) to him.

intervention if the issue cannot be resolved through the return of the remaining shares as well as a transfer of proceeds from the shares that have been sold.

The Receiver has been unable to confirm the existence of any other Receivership holdings in publicly traded securities, but has learned of several private investments and ownership interests through his investigation.

F. Private Investments and Ownership Interests

The Receiver has identified the several private investments/ ownership interests:

Brenda Smith, through her entity Rocmen Holdings, LLC, holds 15 million shares in Bluwater Holdings Corp. (“Bluwater”), a Nevada Corporation run by Hector Valdes, for which she paid \$1.5 million of Receivership Assets. This ownership interest represents twenty percent (20%) of the authorized stock in Bluwater. Ms. Smith, through the Receivership Parties, also contributed substantial sums of money to support and ramp-up Bluwater’s business operations, but these payments eventually stopped. Mr. Valdes claims that Bluwater suffered significant financial losses as a result of Smith’s conduct, from which he is still attempting to recover. The Receiver’s Counsel has been communicating with Mr. Valdes in an attempt to resolve and wind-up Smith’s ownership interest in Bluwater.

Smith paid a total of \$250,000.00 in Receivership Assets to Pennsylvania-based CMCC Development Group, LLC (“CMCC”), in exchange for which she

was given one (1) share in CMCC. CMCC has submitted a creditor claim to the Receivership Estate claiming damages for CV Investment, LLC's purported breach of a contract, seeking \$5,000,000.00 for the breach, \$500,000.00 in direct damages and \$2,400,000.00 in direct damages.

In December 2017, Smith invested \$100,000.00 into OTAF, to participate in OTAF's investment in its wholly owned subsidiary OTAF (Holgate) LLC, which was investing \$5 million into a real estate development project in Long Beach Island. That project is estimated to be completed in late 2022. OTAF made its first four (4) investor distributions to Brenda Smith this year in the amounts of \$48,128.52, \$19,000.00, \$17,000.00 and \$32,356.14, respectively. The first two distributions were sent to the Receiver on June 7, 2021, the third distribution was sent to the Receiver on June 23, 2021, and the fourth distribution was sent to the Receiver on September 23, 2021. It is anticipated that additional distributions will be made on this investment.

Brenda Smith, through Investment Consulting, LLC and Broad Reach Capital LP, transferred over \$1 million to Calais Management Corporation ("Calais") as an investment in a gold mine. Calais and its affiliated and/or successor entities ("Calais Entities") are asserting that the majority of these payments were made pursuant to an agreement through which Smith/the Receivership Parties now have a royalty interest of 2% in future profits, up to

120% of the amount funded. The Receiver is investigating the Calais Entities' assertions, is in active discussions with their counsel, and is awaiting additional documentation.

G. CV International Investments Limited

The Receiver has not discovered any legitimate assets of CV International Investments Limited, with the exception of the small bank account with Cidel Bank in Barbados. Accordingly, in the interest of avoiding the expense of additional time, administrative costs, and professional fees in connection with the takeover and maintenance of this overseas company, the Receiver decided not to renew his objections to the Application to Strike-Off, and the company was administratively dissolved by Companies House on or about September 21, 2021.

H. Fidelity Bond Claim

With the assistance of the Accountants and his Counsel, the Receiver submitted a sworn proof of loss with supporting documentation to American International Group, Inc. ("AIG") on October 1, 2021, seeking coverage under a fidelity bond in effect from August 30, 2018 through August 30, 2019.⁶ The bond has a coverage limit of \$120,000.00, with a \$25,000.00 deductible. The Receiver hopes to receive a response from AIG regarding its coverage position before the close of the fourth quarter of 2021.

⁶ AIG did not agree to reconsider its coverage position for earlier bond periods.

I. Document Review and Investigation

The Receiver's Counsel continues to review 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), as well as documents produced by various individuals and/or entities in response to the Receiver's requests and/or subpoenas.

J. Interviews and Depositions

The Receiver's counsel continues to participate in calls and informal interviews with various individuals who received Receivership Assets or who appear to possess meaningful information regarding the potential whereabouts of additional Receivership Assets. The Receiver's Counsel is scheduling the deposition(s) of certain individual(s) closely affiliated with Brenda Smith, and is attempting to schedule an interview with Brenda Smith, now that she has entered a guilty plea in the underlying criminal action.

K. Communications with Creditors, Investors, Debtors and Claimants

Counsel for the Receiver, particularly its paralegal staff, has continued to have communications with various creditors, investors, debtors and claimants, either directly or through their counsel. Counsel has continued to direct 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 has developed a proposed claims procedure which will provide for formal notification to investors and creditors, and will file a motion for Court approval of that procedure in the near future after consultation with the SEC. The development of a claims procedure, along with a resolution of ongoing tax liability issues with the Internal Revenue Service, are necessary precursors to the Receiver's ability to make an interim distribution of Receivership Assets.

L. Investigation, Development, Negotiation and Pursuit of Claims

The Receiver's Accountants have largely completed their forensic account reconstruction, which has enabled the Receiver to issue various claw-back and demand letters during the last two quarters. The Receiver has issued seventeen (17) demands to various individuals and/or entities, including potential fraudulent transfer recipients, investors who have been identified as net winners and others who appear to have contractual obligations to the Receivership Parties. The Receiver is in the process of attempting to resolve claims with certain of these individuals and/or entities and has entered into tolling agreements with others while information and documentation is exchanged. The Receiver has sought approval from this Court to pursue litigation against certain of these individuals and/or entities to whom demands were issued, and has initiated four (4) lawsuits.

The Receiver and his Counsel, with the assistance of the Accountants, have continued to research, investigate, analyze and develop other potential claims. It is anticipated that these efforts will continue over the course of the next few quarters, and will likely result in the filing of additional motions to initiate litigation.

M. Analysis of Frozen Contested Accounts

The Receiver has resolved his Motion to Determine Ownership of the Taylor Trading Account (Dkt. No. 76) through settlement. The Receiver's Motion to Resolve the Taylor Trading Motion was filed on October 8, 2021. (Dkt. No. 130) Communications and forensic review regarding the Awooton Consulting and Rybicki Capital Partners PNC accounts are likewise continuing, and ownership over these accounts may be the subject of motion practice in the near future.

In addition to the frozen accounts identified as contested in the Receivership Order, certain other individuals and/or entities have expressed an ownership interest in other frozen accounts identified as Receivership Assets in the Receivership Order. *See* Receivership Order, ¶ 3. Specifically, Prophecy Alpha Fund LP is asserting an ownership interest in funds previously held in the Prophecy Alpha Fund LP PNC Account, and certain other individuals have expressed a potential interest in other frozen accounts. The Receiver has requested supporting information and documentation in connection with these claims, but has not yet received any such documentation.

N. Financial Account Reconstruction

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 includes, but is not limited to, the following:

The Accountants have been working to reconstruct financial accounts to determine investor capital account activity and identify third-party recipients of investor funds. The majority of this work is complete, with the exception of some additional records which have been recently received and/or may be forthcoming.

This work involved the reconstruction of accounts held by Receivership Parties, while performing targeted review of other accounts held or controlled by Smith. The Accountants identified over eighty (80) bank accounts for sixty (60) entities covering 2007 to 2019, and reconstructed fourteen (14) accounts for the period of 2015 to 2019, with gross activity totaling over \$1.5 billion.

The Accountants' work on reconstruction of investor capital accounts involved determining the net position of investors, identifying potential claw-back claims, and analyzing investor claims. The Accountants' preliminary analyses with regard to net winner investors provided the support necessary for the Receiver to issue demands for the return of net winnings.

The Accountants also conducted investigations to determine the nature and amounts of transactions with third-party recipients of investor funds, in support of

the Receiver's continued efforts to pursue potential fraudulent transfer or other tort, contractual and/or quasi-contractual claims.

Although the Accountants' work has decreased over the last few months, they will continue to be useful to the Receiver in negotiating and prosecuting claims against net winner investors and recipients of funds, resolving disputes regarding contested accounts, and evaluating investor claims.

O. Receivership Taxes

Alvarez and Marsal is handling the tax returns and other tax-related issues for the Receivership Estate. Specifically, they have communicated with the IRS on behalf of the Receiver, searched for and reviewed historical tax filings for the Receivership Parties, and prepared tax filing extensions for various Receivership Parties. They prepared an 1120-SF federal tax return which treats the Receivership Estate as a Qualified Settlement Fund ("QSF"). The return was filed on October 15, 2021. They will continue to assist the Receiver in discussions with the IRS about negating or minimizing tax liabilities, and will be preparing 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.

The Accountants have determined that the Receivership Parties did not file federal or state tax returns for at least the two years preceding the Receiver's appointment. The Receiver is in regular communication with the IRS to attempt to

resolve the scope of the tax returns that must be filed. It is the Receiver's preliminary position that historical tax returns need not and should not be filed by the Receiver for each individual entity in Receivership. However, if there is not yet an agreement on this point or there is an adjudication differing from the Receiver's position, the Receivership may be forced to incur substantial additional professional fees to prepare and file historical tax returns for pre-appointment time periods, and respond to any notices from taxing authorities related to those returns.

The Receiver engaged Fleming Petenko Law, which has experience advising federal equity receivers, for the purpose of providing advice in connection with certain unique and discrete legal matters pertaining to taxes. Fleming Petenko Law has agreed that fees for the engagement will not exceed \$10,000.00 per calendar year, without prior notice and the Receiver seeking the Court's approval.

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

Over the course of the Receivership, the Receiver has consolidated Receivership Assets from various bank accounts, proceeds from the sale of Receivership stock holdings and other Receivership Assets, and payments received pursuant to certain promissory notes and other private investments—including a \$32,356.14 distribution from OTAF Holgate during this quarter—into the centralized Receivership Account with Bank of America (“Receivership Account”). As of September 30, 2021, total cash on hand was \$6,177,449.21.

The Receiver anticipates that nearly \$500,000.00 in additional money will soon be forthcoming pursuant to certain settlement agreements for which he has sought approval from the Court. The Receiver is actively negotiating potential settlements with several other individuals and/or entities and is hopeful that additional settlement funds will likewise soon be obtained. The Receiver also anticipates that his pursuit of litigation on behalf of the Receivership Estate will result in a financial benefit for the Receivership Estate. The amount at issue in the claims proposed by the Receiver in his Second Motion to Initiate Litigation (Dkt. No. 98) is estimated to be between \$10 - \$15 million; however, this does not include the potential for offsetting counter-claims that may be at issue with respect to some of the proposed defendants, potential collectability risks, or uncertainties inherent in any litigation concerning the ultimate disposition of the claims.

Additional potential assets include more than \$200,000.00 of additional contested funds in frozen accounts for which forensic review and negotiations are continuing,⁷ as well as \$444,213.08 held in two Industrial and Commercial Bank of China Financial Services (“ICBC”) clearing accounts for CV Brokerage.⁸ The

⁷ The frozen funds in the Taylor Trading, LLC account, which total over \$500,000.00, are the subject of the Receiver’s pending Motion to Approve a Settlement Resolving the Receiver’s April 9, 2021 Motion to Determine Ownership of Taylor Trading, LLC Account (Dkt. No. 130), and have therefore been excluded from this calculation.

⁸ These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver. (Dkt. No. 30).

Receiver also believes that some 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 and warranted.

The Receiver remains hopeful that the sale of additional Receivership Assets, including real property owned by BD of Louisiana and Brenda Smith in Tangipahoa Parish, Louisiana, will generate significant proceeds for the Receivership Estate. The Receiver has learned that a majority of Prico Market LLC's Lyft shares—over which ownership has been disputed—were sold by a third party prior to the entry of the Receivership Order, and the Receiver is working to obtain the proceeds from that sale to the extent these shares cannot be returned. The Receiver's investigation into the existence of cryptocurrency reportedly owned by Smith is ongoing.

Due to three fee petitions being granted during this quarter related to three prior reporting periods, the Receivership paid administrative expenses of \$1,263,684.48 during this quarter. This includes \$433,729.60 in fees to Conrad O'Brien, \$805,638.00 in fees to Alvarez and Marsal, \$6,707.44 in expenses to Conrad O'Brien, and \$6,420.03 in expenses to Alvarez and Marsal, paid in accordance with this Court's Orders approving the Receiver's Second, Third, and Fourth Interim Fee Applications (Dkt. Nos. 103, 104 and 121). Additional expenses include a total of \$9,528.52 for outside legal counsel retained in limited,

special engagements for various purposes, broken down as follows: (a) \$175.18 to UK-based PCB Byrne LLP for an outstanding legal bill from a prior quarter relating to advice from Elizabeth Seborg, Solicitor, provided in connection with CV International Investments; (b) \$4,920.00 to Fleming Petenko Law for specialized tax guidance and advice; (c) \$3,263.34 to Special Counsel, which was retained to perform document review in connection with a subpoena to produce documents served upon the Receiver prior to the entry of the Order Approving the Creation of Document Repository and Protective Order on September 2, 2021 (Dkt. No. 118); and (d) \$1,170.00 to Louisiana-based Fishman Haygood, for advice and guidance in connection with B1 Bank's decision to begin retroactively charging the default interest rate on the mortgage for the BD of Louisiana property in Tangipahoa Parish, Louisiana. Finally, the Receiver paid \$753.87 for liability coverage for the Louisiana Properties, and \$900.00 for one of the appraisals of the BD of Louisiana Property. Finally, there was a \$7.02 account analysis fee deducted from the Receivership Account by Bank of America during this quarter.

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

The Receiver believes that, at this point, he has likely identified the majority of Receivership Assets, and his Accountants have traced the funds from the bulk of the investments that were made with Broad Reach. However, some of those funds are non-recoverable. Other funds likely cannot be recovered without litigation.

A. Receivership Bank Account

As of the close of the quarter on September 30, 2021, the balance in the Receivership Account was \$6,177,449.21.

B. Pending Settlements

The Receiver anticipates that an additional nearly \$500,000.00 will soon be forthcoming pursuant to certain settlement agreements for which he has sought approval from the Court. On October 6, 2021, the Receiver filed a Motion to Approve a Settlement Resolving the Receiver's Claims Against BRFP. (Dkt. No. 126).⁹ On October 8, 2021, the Receiver filed a Motion to Approve a Settlement Resolving the Receiver's April 9, 2021 Motion to Determine Ownership of Taylor Trading, LLC Account (Dkt. No. 130).

C. Stock Holdings

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

⁹ The exhibits to this Motion were filed under seal (Dkt. Nos. 127, 128, 129).

- 180,000 shares in Palantir Technologies held by PriCo Market, LLC, for net proceeds of \$4,450,580.34.
- 50,000 shares in Greenbriar Capital Corp held by CV Brokerage, for net proceeds of \$62,030.68.
- 932 shares of Tremor Int Ltd held by CV Brokerage, for net proceeds of \$4,432.78.

Additionally, the Receiver and his Counsel have been advised that Prico Market, LLC (“Prico”)’s 30,000 shares in Lyft are no longer held by Prico. 25,000 of these shares were sold prior to the entry of the Receivership Order, while the individual responsible for that sale continues to hold the remaining 5,000 shares. This individual maintains that the shares belong to him. The Receiver is in active discussions with this individual’s counsel regarding the shares, and is working to determine appropriate next steps to ensure that the Receivership Estate secures a return of the remaining shares and is compensated for the shares that cannot be returned.

D. Private Investments

The Receiver has identified four (4) private investment/ownership interests which constitute part of the Receivership Estate, which the Receiver is hopeful he will be able to liquidate either through distributions and/or a buy-out, as follows:

- Brenda Smith, through her entity Rocmen Holdings, LLC, holds 15 million shares, or a twenty percent (20%) ownership interest in Bluwater, for which she paid \$1.5 million in Receivership Assets.

- Brenda Smith holds one (1) share in CMCC, for which she paid \$250,000.00 in Receivership Assets.
- Brenda Smith invested \$100,000.00 in OTAF (Holgate) LLC for a real estate development project which is estimated to be completed in late 2022. So far, the Receiver has received distributions totaling \$84,128.52 on this investment.
- Brenda Smith invested over \$1 million in Calais Management Corporation, which its affiliated and subsidiary entities are claiming has been converted into a 2% royalty interest, for up to 120% of the amount funded. The Receiver is still investigating these assertions and is in the process of gathering and evaluating documentation.

E. Receivables and Promissory Notes

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

The Receiver has also identified several outstanding promissory notes. For example, Medical Consultants Instructional Training Center (“MCITC”) issued three (3) promissory notes to Receivership Party Investment Consulting LLC on April 11, 2016, May 23, 2016 and July 20, 2016, in the amounts of \$100,000.00, \$200,000.00 and \$150,000.00, respectively, in connection with \$450,000.00 in loans made to MCITC by Investment Consulting LLC and Broad Reach Capital LP. The MCITC Notes are subject to varying interest rates. Claims under the MCITC Notes have been asserted in connection with the lawsuit filed by the Receiver styled *Kevin D. Kent, in his capacity as Receiver v. Medical Consultants Instructional Training Center et al.*, No. 2:21-cv-13104 (D.N.J.).

Additionally, Sunny Ocean 699, LLC and Agostinho Calcada, individually, issued a promissory note to Receivership Party Elm Street Investments, LLC (“Elm Street”) on October 19, 2016, in the amount of \$1,530,740.83, subject to a six percent (6%) annual interest rate, in connection with a loan of that same amount provided by Elm Street for the purchase of property in Golden Beach, Florida which was subsequently lost through foreclosure. A breach of contract claim under the Note has been asserted in the lawsuit filed by the Receiver styled *Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada*, No. 2:21-cv-18396 (D.N.J.).

The Receiver is investigating the recoverability of several additional outstanding promissory notes/loan obligations which may be the subject of future litigation.

F. Louisiana Properties

As noted in previous quarterly status reports, 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: the BD of Louisiana Property and the Smith Property. The BD of Louisiana Property consists of undeveloped raw land, while there is a home on the Smith Property which has fallen into disrepair over the years while occupied by a prior tenant.

It is the Receiver's understanding that the Smith Property is not subject to a mortgage. The BD of Louisiana property is subject to a mortgage from B1 Bank, which matured on June 25, 2019 and continues to accrue interest. The principal amount of the mortgage is approximately \$345,000.00. B1 Bank is now attempting to charge a default interest rate of twenty-one percent (21%) on the mortgage, and is claiming that the balance owed with principal and interest exceeds \$500,000.00. The Receiver is in the process of analyzing the default interest assertion, and engaged local counsel for the limited purpose of addressing that issue. The Receiver hopes to sell the BD of Louisiana Property as soon as possible.

After the Receiver's Motion for Appointment of Replacement Real Property Appraisers was approved on August 20, 2021 (Dkt. No. 114), the Receiver's realtor listed the BD of Louisiana Property for \$899,500.00. The listing for the BD of Louisiana Property can be found here:

<https://www.realtor.com/realestateandhomes-detail/E-Adams->

[Rd Hammond LA 70403 M91155-75798](https://www.realtor.com/realestateandhomes-detail/E-Adams-Rd-Hammond-LA-70403-M91155-75798). The Receiver's realtor listed the Smith Property for \$350,000.00. This listing for the Smith Property can be found here:

[https://www.zillow.com/homedetails/17091-Highway-1064-Tickfaw-LA-](https://www.zillow.com/homedetails/17091-Highway-1064-Tickfaw-LA-70466/213661938_zpid/)

[70466/213661938_zpid/](https://www.zillow.com/homedetails/17091-Highway-1064-Tickfaw-LA-70466/213661938_zpid/). The Receiver is in the process of finalizing an Agreement of Sale on the Smith Property, subject to Court approval. The BD of Louisiana Property listing remains active as of the date of this filing.

G. Additional Bank Accounts and Funds

It is estimated that there is over \$200,000.00 remaining in frozen, contested accounts in the name of Awooton Consulting and Rybicki Capital Partners LLC.

Likewise, ICBCFS continues to hold \$444,213.08 in two clearing accounts for CV Brokerage, pursuant to the Stipulation to Resolve ICBCFS' Motion to Amend the Amended Order Appointing Receiver. (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.¹⁰ The Receiver has not been able to confirm the existence of additional funds in other overseas bank accounts, due in part to a lack of cooperation from banks outside the jurisdiction of the United States Courts. The Receiver is investigating all reasonable and cost-effective options for gaining easier access to overseas funds.

H. Vehicle

The Receiver sold Brenda Smith's 2017 Infiniti QX70 for \$27,000.00 on September 2, 2021, which is within the Kelly Blue Book Fair Market Range for the vehicle, in accordance with the permission granted to him by the Court (Dkt. No. 102). The battery on the vehicle had died. The Receiver was able to sell the vehicle to a Nissan dealership which provided the most attractive offer for the vehicle and

¹⁰ As previously indicated, the Receiver has been advised that he must retain local counsel in order to get the Receivership recognized and get access to these funds.

was able to tow it away, without the Receivership needing to incur costs for private towing or repair.

I. Magnetite

Brenda Smith is no longer in possession of any magnetite concentrate. The Receiver has confirmed that the magnetite purchased by Smith and stored on a ranch in New Mexico was sold by the ranch owner after Smith stopped making payments. The Receiver continues to investigate potential remedies.

J. Personal Property

With the Court's approval, Stephenson's Auction was retained to auction off a majority of the personal property found in Smith's apartment, including furniture, clothing, jewelry, rugs, and other miscellaneous items. (Dkt. No. 102). They are selling Smith's marketable personal property on a rolling basis. These sales have generated \$7,407.60 in net proceeds so far.

The Receiver is exploring his options to separately sell certain potentially valuable rugs from Smith's Rittenhouse Apartment. Additionally, administrative staff at Conrad O'Brien will be making arrangements to have someone retrieve personal / sentimental items without significant resale value for Ms. Smith.

K. Server Equipment

The server equipment retrieved from the Equinix data center has not yielded usable data. The Receiver is in the process of investigating whether any options are available for the sale of this equipment.

L. Insurance

On October 1, 2021, the Receiver submitted a sworn proof of loss with supporting documentation to AIG under a fidelity bond with coverage limits of \$120,000.00 and a \$25,000.00 deductible. The Receiver will investigate other information he receives regarding other potentially applicable insurance coverage and/or bonds.

M. Cryptocurrency

The Receiver has not yet been able to confirm the existence of any cryptocurrency of value belonging to the Receivership Estate, but investigations are continuing in this regard.

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.

The Receiver and his Accountants continue to investigate such claims, and to resolve some of them through pre-litigation settlements.

On February 9, 2021, the Receiver filed a Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate. (Dkt. No. 49). That Motion was granted on August 31, 2021. (Dkt. No. 117). On June 29, 2021, the Receiver filed his Second Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate, which remains ripe for determination. (Dkt. No. 98). Those potential claims have already been researched and investigated by the Receiver and his Counsel, and discussed with counsel for the SEC. The Receiver anticipates filing additional similar motions in the near future, as his investigation continues, when he determines that the pursuit of any such claims will be financially beneficial for the Receivership Estate.

On June 29, 2021, the Receiver filed three (3) lawsuits in the United States District Court for the District of New Jersey against several of the prospective defendants identified in Exhibit 1 to the Receiver's Second Motion to Initiate Litigation. Descriptions regarding these lawsuits are 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.)

This lawsuit involves the transfer of \$1,429,755.00 in Receivership Assets for the benefit of Emperor Global Enterprises LLP ("Emperor Global"), EGE Limited, and their directors, Michael P. Michael and Georgia Iacovou, from March 1, 2017 through September 8, 2017, purportedly pursuant to a Joint Venture Agreement ("JVA") entered into between Clearview

Investments LLC—which, upon information and belief, is a fictitious name for Receivership Party CV Investments LLC—and Emperor Global, and invoices issued by Emperor Global and EGE Limited. It is the Receiver’s understanding that none of the business ventures in connection with which these payments were made ever came to fruition. Further, pursuant to the JVA, certain of these funds were to be returned if the transaction contemplated in the JVA did not take place. The Complaint includes claims for avoidance of fraudulent and voidable transfer, unjust enrichment, breach of contract and a demand for accounting.

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 lawsuit involves the transfer of \$450,000.00 in Receivership Assets for the benefit of the MCITC Defendants and/or their owner, Carol Johnston between April 8, 2016 through July 21, 2016. This money was used to pay for various expenses of the MCITC Defendants and Johnston, including but not limited to rent, operating expenses, payroll and personal tax liabilities. These loans were memorialized by three promissory notes issued by Medical Consultants Instructional Training Center to Receivership Party Investment Consulting, LLC, which provided for the accrual of interest on the notes. As of the date of the filing of the Complaint, the total owed on the notes was \$800,542.60. The Complaint includes claims for confession of judgment, breach of contract, unjust enrichment, action to avoid fraudulent and voidable transfer, and a demand for accounting.

Kevin D. Kent, in his capacity as Receiver v. Richard C. Galvin, et al., No. 2:21-cv-13105 (D.N.J.)

This lawsuit arises from complex business dealings between Brenda Smith and Richard Galvin (“Galvin”) and several of Galvin’s entities, including Galvin Investment Company (“GIC”), Gilman Metals Company, LLC (“Gilman Metals”), Galvin Metals Company, LLC (“Galvin Metals”) and RG Coastal LLC (“RG Coastal”), and the transfer of in excess of \$5,000,000.00 in Receivership Assets to, for the benefit of and/or at the request of Richard Galvin and his various entities. More specifically, Brenda Smith caused \$606,000.00 in Receivership Assets to be transferred directly to Richard Galvin and/or GIC in 2016, along with approximately \$1.5 million in additional funds for which investigation is ongoing. Smith also used \$677,737.48 in Receivership Assets to pay off a loan for Gilman

Metals, which was guaranteed by Galvin and GIC, and made additional payments on behalf of Galvin and his entities for various business dealings. Further, Smith loaned approximately \$3.1 million to a company called 2019 Stout Development (“2019 Stout”), of which RG Coastal was a member and Galvin was manager, which allowed 2019 Stout to purchase property at 2019 Stout Street, Denver, Colorado (“the Property”) and pay-off prior investors. RG Coastal was obligated to pay back \$3.1 million to Receivership Party CV Investments, LLC, pursuant to a settlement agreement and promissory note. RG Coastal failed to meet its payment obligations, and \$2,990,000.00 remains due and owing on the Note. The Note provided that if RG Coastal fails to meet its payment obligations, CV Investments, LLC would be the sole member of 2019 Stout and therefore the owner of the Property. However, Galvin took out loans and issued two deeds of trust on the Property before his final payment to CV Investments, LLC was due, and failed to make the required payments. The Property was ultimately lost to foreclosure, leaving CV Investments, LLC’s ownership interest in 2019 Stout essentially worthless. The Complaint includes claims for action to avoid fraudulent and voidable transfers, unjust enrichment, breach of contract, breach of fiduciary duty, and a demand for accounting.

On October 11, 2021 the Receiver filed another lawsuit in the United States District Court for the District of New Jersey against Agostinho Calcada. A description regarding this lawsuit is as follows:

Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada, 2:21-cv-18396 (D.N.J.)

This lawsuit involves \$1,530,740.83 loaned by Elm Street Investments, LLC (“Elm Street Investments”) to Sunny Ocean 699, LLC and Agostinho Calcada in October 2016 for the purchase of property in Golden Beach, Florida. The loan was documented by a promissory note which provides for repayment of principal plus payment of interest at an annual rate of six percent (6%), and the Note was secured by a second mortgage on the Golden Beach Property, which was lost through foreclosure. No payments have been made on the Note. The Note is enforceable against Agostinho Calcada individually, pursuant to its terms. As of the date of the filing of the Complaint, the total owed on the Note was \$1,988,201.68. The Complaint includes a claim for breach of contract.

VII. CREDITORS

As previously reported, 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. Those arbitrations have not yet concluded, and the viability and extent of ICBCFS' claims have not yet been determined.

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. 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—including liquidated damages, lost profits and punitive damages—and costs, totaling nearly \$22 million, plus prejudgment and post-judgment interest of 15%. 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.

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. The Receiver may seek to have the stay lifted if he is unable to resolve his claims against Nottingham and Sanville through settlement, so he can pursue those claims in that action given significant factual overlap and likely reduced litigation costs and attorneys’ fees.

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. 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 plaintiff in that action, Vivian Williams, notified the Court of the stay and sought to proceed against George Heckler and the non-Receivership defendants only. She ultimately entered into a consent judgment with George Heckler only, which was filed on May 11, 2021.

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 previously notified the attorney for Bank of America of the Receivership Order and stay of litigation. After discovering that a Praecipe to Reinstate Complaint was

filed on September 17, 2021, the Receiver sent another letter to Bank of America's attorney reminding him of the litigation stay.

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.

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.

The Receiver has also been advised by various individuals and/or entities that they have suffered harm as a result of Smith's conduct, as detailed above. CMCC has submitted a creditor claim form for the \$7.9 million damage claim set forth above. The Receiver is not aware of these individuals or entities filing litigation claims, or obtaining judgments against, Smith or any of the Receivership Parties.

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, which has been published on the Receiver's website, at <http://broadreachreceiver.com/index.html>. The Receiver is in the process of notifying known and potential creditors to visit the site to complete claim forms.

The Receiver is preparing to file a motion for an order setting forth a claims bar date, establishing a claims procedure and approving a notification process for investors and creditors. This will allow for the orderly, efficient and equitable administration of all claims while avoiding confusion, delay and unnecessary expense in connection with any future distributions.

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 through the sale of additional Receivership Assets and through the settlement of claims and pursuit of litigation. Given the ongoing nature of his investigation, 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 Fifth 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: 10/29/2021

s/ Robin S. Weiss
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EXHIBIT “A”

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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 07/01/2021 TO 09/30/2021

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 07/01/2021 TO 09/30/2021

FUND ACCOUNTING (See Instructions):		Current Reporting Period - 07/01/21 to 09/30/21			06/29/20 - 09/30/21
		Detail	Subtotal	Period Total	Case to Date
Line 1	Beginning Balance (As of 07/01/21)			\$ 7,374,976.35	\$ -
	<i>Increases in Fund Balance:</i>				
Line 2	Business Income			-	-
Line 3	Cash and Securities			(7.02)	7,510,069.21
Line 4	Interest/Dividend Income			-	5.67
Line 5	Business Asset Liquidation			-	700.00
Line 6	Personal Asset Liquidation			69,170.14	153,298.66
Line 7	Third-Party Litigation Income			-	-
Line 8	Miscellaneous - Other			-	-
	Total Funds Available (Lines 1 – 8):			\$ 7,444,139.47	\$ 7,664,073.54
	<i>Decreases in Fund Balance:</i>				
Line 9	Disbursements to Investors/Claimants			-	-
Line 10	Disbursements for Receivership Operations			1,266,690.26	1,486,624.33
Line 10a	Disbursements to Receiver or Other Professionals			1,262,023.59	
Line 10b	Business Asset Expenses			1,653.87	
Line 10c	Personal Asset Expenses			3,012.80	
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			-	
	Total Disbursements for Receivership Operations			\$ 1,266,690.26	\$ 1,486,624.33
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			-	
	Total Disbursements for Distribution Expenses Paid by the Fund			\$ -	-
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):			\$ 1,266,690.26	\$ 1,486,624.33
Line 13	Ending Balance (As of 09/30/21):			\$ 6,177,449.21	\$ 6,177,449.21
Line 14	Ending Balance of Fund – Net Assets:				
Line 14a	Cash & Cash Equivalents			6,177,449.21	6,177,449.21
Line 14b	Investments			-	-
Line 14c	Other Assets or Uncleared Funds			-	-
	Total Ending Balance of Fund – Net Assets			\$ 6,177,449.21	\$ 6,177,449.21

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 07/01/2021 TO 09/30/2021

OTHER SUPPLEMENTAL INFORMATION:		Current Reporting Period - 07/01/21 to 09/30/21			06/29/20 - 09/30/21
		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:			\$ -	\$ -
<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			-	-
	<i>Total Plan Development Expenses Not Paid by the Fund</i>			\$ -	-
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>				
	1. Fees:			-	-
	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			-	-
	<i>Total Plan Implementation Expenses Not Paid by the Fund</i>			\$ -	-
<i>Line 15c</i>	<i>Tax Administrator Fees & Bonds Not Paid by the Fund</i>			-	-
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-	-
Line 16	Disbursements to Court/Other Not Paid by the Fund:				
<i>Line 16a</i>	<i>Investment Expenses/CRIS Fees</i>			-	-
<i>Line 16b</i>	<i>Federal Tax Payments</i>			-	-
	Total Disbursements to Court/Other Not Paid by the Fund:			-	-
Line 17	DC & State Tax Payments			\$ -	\$ -
Line 18	No. of Claims:				
<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>				-
Line 19	No. of Claimants/Investors:				
<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>				-

Receiver:

By: Kevin Dooley Kent
 (signature)

Kevin Dooley Kent
 (printed name)

Receiver
 (title)

Date: October 27, 2021

NOTES TO THE STANDARDIZED FUND ACCOUNTING REPORT

Receivership Cash Accounts

As of September 30, 2021, the Receiver's cash balance of \$6,177,449.21 was maintained in a checking account at Bank of America.

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 Account Report, the Receiver anticipates recovering future distributions related to Brenda Smith's personal investment in OTAF LLC.

Lastly, the Receivership has an interest in four parcels 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"). The Smith Property is currently listed for sale for \$350,000. The BD of Louisiana Property is currently listed for sale for \$899,500. The BD of Louisiana Property is subject to a mortgage with outstanding principal of approximately \$345,000.

**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 October, 2021, that I caused to be served a true and correct copy of the Receiver Kevin Dooley Kent's Fifth 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 Dooley Kent,
Esq.